

Public Commission on the Oregon Legislature
PROCESS COMMITTEE – Selected Meeting Summaries
Discussion on Session Structure Issues

DECEMBER 6, 2005

- Attending in person: Ginny Lang, Chair and Frank Brawner, Dave Frohnmayer, Sen. Gordly, Tim Hibbitts, Barbara Karmel, and Hans Linde. Guest Members: Sen. Frank Morse.

Session structure discussion – Invited Panel (Randall Edwards, Sen. Devlin, Bruce Bishop, Tom Gallagher)

- Treasurer Edwards stressed the importance of shifting from biennial sessions to annual sessions to help bring more fiscal stability to the state. He stated that the legislative process has been weakened by the initiative as has budget stability. Treasurer Edwards suggested that the Legislative Assembly doesn't have to meet for a longer period during the biennium, just more often.
- Sen. Richard Devlin provided the committee with a legislative history of various annual session proposals. He highlighted that recently, several have passed at least one house with bipartisan support.
- Bruce Bishop, lobbyist testifying on his own behalf, suggested that the worst time for session to start is January of odd-numbered years since many legislators are not prepared to do legislative business so soon after an election. Bishop provided the committee with a 12 step proposal to retime the existing biennial session to begin in September. The period between January and September would allow an opportunity for members and committee to “ramp-up” for session.
- Tom Gallagher, lobbyist testifying on his own behalf, suggested that changing the existing session structure will add a budget load and would affect campaign contributions and elections issues. Gallagher suggested that solutions to the current frustrations with the legislative process could be to tighten up introduction of measures; give more power to committee chairs; name the same committees in both houses for easier transition of measures; adjourn session on a date certain; improve the effectiveness of interim committees; and establish cutoff dates for bills
- Committee members and witnesses spoke about the existence or function of the Emergency Board under annual sessions; expressed concern about the loss of a citizen legislature under annual sessions; expressed frustration at the first three months of the current biennial session citing they are unproductive; asked about effect on the imitative process under annual sessions; role of committees during the interim of a retimed biennial session; and whether it is possible for the Senate to have a more full-time role than the House.

Public comment on session structure issues

- Susan Keen stated that annual sessions are needed.
- Paula Krane, League of Women Voters, stated support for annual sessions and indicated that the league has supported annual sessions in the past.
- Sen. Frank Morse shared several ideas with the committee: need for more Legislative Fiscal staff to help with oversight of state agencies; support for annual sessions; increasing legislator compensation due to the full-time nature of the job; need for greater integrity in the legislative process; comments on excessive partisanship; and a need to establish more rights for members of the minority party.
- Ramona Kenady, Chief Clerk of the House, speaking on her own behalf reviewed work done in 1992 and 1995 related to retiming of the biennial session. She commented on the intent to have a “productive interim” before legislative session. Committee members asked how retiming would impact the fiscal year and budget process.

Documents made available to committee members

- Session Structure Discussion, prepared testimony, Randall Edwards, 5 pp
- Session Structure Discussion, memorandum, Bruce Bishop, 3 pp
- Session Structure Discussion, prepared testimony, Sen. Frank Morse, 7 pp

- Session Structure Discussion, 1992 report outline, Ramona Kenady, 9 pp
- Session Structure Discussion, informational packet, Bruce Bishop, 57 pp
- Session Structure Discussion, prepared testimony, Tom Gallagher, 2 pp

JANUARY 13, 2006

- Attending in person: Ginny Lang, Chair and Frank Brawner, Sen. Gordly, Tim Hibbitts, Barbara Karmel, and Hans Linde. Attending by phone: Dave Frohnmayer. Guest Members: Greg Merten, Sen. Frank Morse, Connie Seeley.

Committee discussion on session timing – Continued from December

- Dave Frohnmayer reiterated the value of having a problem statement to which changing the session calendar could be perceived as a solution. He expressed skepticism about annual sessions and wondered if the two chambers could instead function separately.
- Frank Brawner suggested that a number of problems could be solved with annual sessions or retiming biennial sessions. He provided the committee with a specific proposal for annual sessions with a limited number of session days, annual budget sessions, extension options, prohibition of carrying bills from one session to the next.
- Barbara Karmel summarized a list of problem statements annual sessions could solve: 1) the board of directors is now on vacation for a year and a half; 2) the pace of life has changed from 25 years ago as has the reaction time; 3) the current biennial session lacks predictability for the members; 4) control and power of committees is magnified by biennial sessions; and 5) the legislature is now not able to address the major concerns of Oregon and citizens. She expressed the need for annual sessions, need for deadlines and review of the budget process.
- Hans Linde suggested that the two houses have distinct and separate functions allowing legislators to choose between full and part-time service. He explained that the concept was proposed in an article “Prescription for the Citizen Legislature: Cutting the Gordian Knot” in 1977 but portions of the plan have not been implemented elsewhere. He suggested giving the commission two recommendations to choose from with regard to the session structure discussion. Linde also stressed that annual sessions don’t need to start with a constitutional amendment to the people – the legislature can experiment with timelines and sessions under their own power.
- Gary Wilhelms suggested that limits on length of session are needed to sell the annual session concept, but limitations can drive legislative negotiations into the back room.
- Committee members suggested the budget process is the most important piece of session, and most members agreed that there should be some limit on the length of session.
- Ramona Kenady, Chief Clerk of the House, speaking on her own behalf, suggested that delaying session has merit; states with limited sessions have a vote requirement to extend session; and limit the reintroduction of measures from one session to the next.
- Bruce Bishop, lobbyist speaking on his own behalf, stressed that the intent of changing session dates is to make the process more productive and that there should be some separation between the election and the start of session.

Former members share perspectives on legislative service (Bob Repine, Tony Corcoran, Max Williams)

- Three former legislators were asked to share ideas with the committee about barriers and incentives to running for office and general reflections on legislative service.
- Bob Repine stated that the public doesn’t understand the legislative process or purpose and that the desire to participate in public service is being lost through generational transition over time. If people can’t be convinced to serve at the local level, they’re less likely to serve at the state level. He suggested that the houses need to have a greater understanding between the majority and minority parities and there should be a focus on making interim work more productive than it is now. Finally he suggested that there should be a process to screen legislation and not print more bills than what the assembly can feasibly hear and act on (e.g. passing 800+ of 3000+ bills/session)

- Tony Corcoran advocated for publicly financed campaigns in order to attract good candidates. He also suggested that there be mandatory, equal media coverage of candidates. Tony advocated for more legislative staff and increase or at least tie their pay to that of other comparable state workers. He also stated that legislator salaries should be increased, as should per diem citing that most legislators must maintain two households during session and that geography should be considered a factor in compensation increases.
- Max Williams suggested that the “good old days” were not that good and that issues affecting the legislature now are not new. He suggested that the reasons people run for office are as varied as the people running and that there are natural term limits in the legislature. Max cited salary as a deterrent to running for the legislature saying that all members make sacrifices to participate in the process, but financial sacrifice is a big one. Max encouraged strengthening staff resources for legislators and research purposes. He agreed with the possibility of retiming the legislative session and said that it might add more certainty to the legislative schedule. Max suggested that there be more jointly-operated committees. Finally, he stressed that the committee ensure that legislators have the flexibility to act independently within the legislative process.
- When asked about increasing legislator compensation, the panel commented that a commission process or blue ribbon panel might have legitimacy when suggesting increases in wages. The panel stated that the low legislator salary prohibits getting a good cross-section of Oregonians in the assembly.
- When asked about the initiative process and its affect on the legislative process, the panel agreed that the balance between the two has changed recently and that the legislative process is thoughtful and allows for debate whereas the initiative process is driven by few people without review of the proposal. They suggested that the legislature has some degree of responsibility for the increase in the use of the initiative in that the public loses patience for a legislative solution to problems.

Political consultants share perspectives on the legislature (Elaine Franklin, Mark Wiener, and Chuck Adams)

- Three political consultants were asked to share their perspectives on the legislature with the committee.
- Elaine Franklin stated that the process limits the type of people who can run for the legislature. She stated that Oregon is not homogeneous and there is a narrow base of candidates who can run and make it through a primary election. She cited the indefinite time commitment and low pay as a barrier to some candidates. Elaine stated that Oregon has single issue voters controlling the primary elections; a press that rips apart politicians and assigns a bad name to the institution; and inexperienced legislators who have to approve huge budgets. As for recommendations for improvement, Elaine suggested: open primaries; begin session after the May forecast; annual sessions; limit the length of session; extend the length of House terms to four years; increase legislator pay.
- Mark Wiener concurred with much of what Elaine said and added that there is a relationship between what happens during session and what is said during the campaign. Mark also suggested that if people want to improve the legislature, they must create an atmosphere that respects the work that legislators do and allows them the time necessary to do the service.
- Chuck Adams identified several key problems with the legislative process that affect performance: 1) biennial sessions that last 7+ months and are outdated; 2) low legislative pay that forces members to be creative with their resources; 3) legislative process that does not create a culture where staff can gain experience and knowledge in public policy areas.
- Committee members asked what the consultants want their candidates to convey and how close that is to what the legislature needs. The panel responded that they look for sincere, articulate candidates who can convey compassion, are principled and intelligent. The candidates are big-picture thinkers, know what they want to accomplish, and can relate to citizens about their issues.
- Members asked the panel what responsibility they bear, as political consultants, to the perceived deterioration in political campaigning. The panel acknowledged that campaigns can be aggressive,

but generally no more so than the opposition. They also stated that there are different campaign styles that will make a person successful and win.

Documents made available to committee members

- Former Members, biographies, staff, 3 pp
- Former Members, written testimony, Tony Corcoran, 1 pp
- Political Consultants, written testimony, Elaine Franklin, 5 pp
- Political Consultants, written testimony, Chuck Adams, 4 pp
- Session Timing, written testimony, Frank Brawner, 2 pp

JANUARY 31, 2006 – “Brainstorm meeting”

- Attending in person: Ginny Lang, Hans Linde, Gary Wilhelms, Connie Seeley, Sean Cruz representing Sen. Gordly, Ken Rocco and Teresa McHugh (LFO), Paul Warner (LRO), David Heynderickx (LC), Ramona Kenady (House), Judy Hall (Senate), Jim Scherzinger (former LRO)

Discussion about session structure issues

- Process Committee members and other commission members were invited to brainstorm with legislative staff about technical budget, revenue and timing details related to restructuring of session.
- Commission members asked if it is feasible to change the fiscal year with regard to the revenue forecasts. Paul Warner responded that the most important revenue projection comes after April 15th. When asked if the revenue forecasts and fiscal year are married, Paul responded that the law requires quarterly revenue forecasts therefore the fiscal year can be adjusted. Ken Rocco indicated that four states do not have a July 1 fiscal year.
- Attendants spoke about what problem the commission is trying to solve by moving the fiscal year or session. It was stated that there is a public perception problem when the legislature can't approve certain budgets within certain timelines. Jim Scherzinger stated that the legislature is the most important decision making body in the state and that the commission should look at timelines that will facilitate good decision making. He suggested that the current structure of budgeting and then studying issues doesn't make a lot of sense.
- When asked what timeline is best for school budgeting, Jim Scherzinger indicated that it is most productive to know by March what the budget will be. He indicated that school boards generally spend half their budget before their budgets are approved.
- Attendants spoke of giving the legislature flexibility to try out different session structures under their own power. Concern was raised about why there is an urge to retime session. Retiming could bring about a stronger caucus model to the legislative process and it might shorten the amount of time spent on complex issues than more time. However an argument was made that retiming might bring about a more efficient use of legislators time.
- Dave Heynderickx said that Legislative Counsel has a problem drafting so many bills at the beginning of session, but the ability to draft earlier would help LC and the process. It was suggested that the best time for members to draft bills is right after the election, but new members generally don't know how to do that.
- If the session was retimed to January of the even-year, the attendants spoke about when a Governor's budget would be issued and when agency bills would be drafted to compliment the Governor's budget. Attendants also acknowledged that there would be an impact on the elections calendar if session restructuring is approved.
- It was stated that the influence of leadership and politics affect how quickly the legislative process moves.

Documents made available to attendants

- 12 Steps to Retime the Oregon Legislature in 2007 and related documents, Bruce Bishop, 11pp
- Annual Legislative Sessions Proposal, Frank Brawner, 2pp
- Annual vs. Biennial Legislative Calendars (Bishop/Brawner comparison), Bruce Bishop, 1 pg
- Report to House Committee on Legislative Rules (1992 Proposal), 9pp

- Email thoughts on session structure, Gary Wilhelms, 2pp
- Structuring Sessions and Interims – comments, Hans Linde, 5pp

FEBRUARY 10, 2006

- Attending in person: Ginny Lang, Chair and Frank Brawner, Dave Frohnmayer, Sen. Avel Gordly, Tim Hibbitts, Barbara Karmel, and Hans Linde. Guest Member: Dave Barrows.

Discussion about session frequency, length and timing – Budget process

- Jim Scherzinger, former Legislative Revenue Officer; Ken Rocco and Theresa McHugh, Legislative Fiscal Office; and Joan Robinson, Legislative Counsel joined the committee to talk about issues related to session frequency, length and timing.
- Jim Scherzinger stated that the discussion should center on creating the best decision making process for the Legislative Assembly. He suggested that members need time after the election to learn about issues and interact with staff. When they're prepared they can make rational decisions. Jim indicated that retiming of session could make staff more effective leading to a more rational decision making process. He indicated that schools generally make staffing decisions in March and they will be ok in the legislative process as long as it is rational. Jim stated that the most reliable revenue forecast comes after the April 15th income tax deadline.
- Members asked if there is a need for the Emergency Board if session is retimed to September or January of an even-year. Scherzinger indicated that E-Board would not be as needed in those timeframes. Ken Rocco commented that if session is retimed to March or April of the odd-year, then it is likely E-Board will continue to exist.
- Joan Robinson submitted a list of constitutional issues that the committee should consider before they decide on a new session structure. Issues include: sine die and effective date of measures; the kicker; reapportionment; and timelines for a referendum.
- Dave Frohnmayer asked what problem session restructuring can solve. He listed upsides and downsides of a change. Upsides could be: 1) lead to better preparation for legislative session; 2) lead to better budgets; 3) session could be less expensive due to a shorter calendar; 4) lead to more rational decision making and reduce partisanship; 5) save the citizen legislature. Downsides could be: 1) moving away from addressing issues in a timely manner that people were elected for; 2) running the calendar into primary elections; 3) detrimental timing of some governmental issues; 4) members need of training; and 5) politics can't be removed from politics.
- Some committee members expressed support for annual sessions citing the legislature's responsibility to be the school board for the state and provide funding. Members were cautioned that splitting budget responsibilities between years might allow the discussion to be pushed off from one year to the next.
- Discussion centered on the kicker and when it could kick if there are annual sessions. Counsel cautioned that without a constitutional amendment, the kicker remains on a biennial calculation cycle.
- Sen. Gordly suggested that the committee should have concern for constitutional bonding
- Committee members discussed whether they should move towards annual or biennial budgeting. Ken Rocco said that either model could work, but more states are moving to a biennial budget than annual now. Theresa McHugh cautioned that many statutes and processes would have to change if there is a switch to annual budgeting.
- Rocco and McHugh discussed the DAS allotment process and how funds are released to agencies. If DAS doesn't approve of the spending plan, the agency can't spend the money and the Treasury can stop paying bills.
- When asked about the proposal of differentiating the roles of the houses, Dave Frohnmayer outlined details from the 1977 Law Review article he wrote with Hans Linde "The Prescription for the Citizen Legislature: Cutting the Gordian Knot" He stated that some of the details were included in HJR 54 which was considered during the 1977 session. The purpose of the plan was to: 1) preserve the citizen legislature; 2) provide for a more efficient lawmaking process; 3) eliminate the Emergency

Board; and 4) get a clearer picture of budgeting oversight policy. The House would be the people's house; meet on a biennial basis; retain the traditional function in two-year terms; and have the authority to raise revenue. The Senate would take on the role of a full-time body; have oversight over interim fiscal adjustments and executive appointments – they would essentially take over the role of the Emergency Board. The Senate could be nonpartisan and the House could remain partisan. The plan could allow for 31 Senate members and 61 House members. Both chambers would still be required to enact laws and resolutions and other official actions. Hans and Dave acknowledged that this type of structure does not exist in any other state.

Possible recommendation on session structure (Proposal #2 – Length of Session and Proposal #3 – Annual Sessions)

- The chair opened the discussion by outlining the three major session structure proposals the committee has talked about: traditional annual sessions; retiming the biennial session; and the “Gordian Knot”-type concept.
- Hans Linde urged the committee to do as much reform without a constitutional referral and try to allow the legislature to work with their schedule under their existing authority
- Committee members discussed differences between the biennial budget process and annual budget process and Dave Frohnmayer advocated strongly for retaining a biennial budget process stating that advantages to an annual budget cycle are theoretical. Members noted hearing that the trend in budgeting is moving to biennial budgets rather than annual. A majority of committee members endorsed the concept of retaining a biennial budget cycle.
- Committee members discussed the merits of forwarding two session structure recommendations to the commission – one probably being an annual sessions-type recommendation and the other being a “Gordian Knot”-type recommendation.
- With regard to annual sessions, members spoke of different lengths of sessions from 90 to 120 days and whether or not a second session would be needed or held if it is limited to budget issues and the budget was not in need of adjustment. Committee members appeared divided on whether or not to set a strict limit to the length of session.
- Members spoke of session structure details including pre-session filing of bills; “ramping-up” to session if there is a delayed start date; continuation of bills from one session to another; and the effective date of legislation without adjourning sine die.
- The chair reiterated that most of the discussion was trending toward using rules and statute to retime the existing biennium with a later start date and not necessarily requiring, expecting or anticipating a second session. There was some support for pursuing annual sessions with a constitutional amendment.
- Members debated whether annual sessions would be structured such that one session is for policy, one for budget or one for policy with budget and one for budget if necessary. Other members debated whether a second session would be necessary.

Documents made available to committee members

- Discussion about session frequency, length and timing, table, staff, 1 p
- Discussion about session frequency, length and timing, constitutional provisions, Joan Robinson, 10 pp
- Discussion about session frequency, length and timing, memo, Theresa McHugh, 2 pp
- Proposal #002 and 003, Frank Brawner’s proposal, Frank Brawner, 2 pp
- Proposal # 002, and 003, NCSL table, staff, 1 p

MARCH 6, 2006

- Attending in person: Ginny Lang, Chair and Sen. Avel Gordly, Barbara Karmel, Hans Linde.
Excused members: Frank Brawner and Dave Frohnmayer. Guest members: Dave Barrows, Greg Merten, Connie Seeley, and Kerry Tymchuk.

Committee discussion about the budget process

- The chair informed members that several committee members and other commission members had the opportunity to talk with Sen. Kurt Schrader about the budget and Ways and Means process recently. Today, members would hear Rep. Wayne Scott's perspective on similar issues.
- Sen. Gordly explained the value of tying agency performance measures directly to the Oregon Benchmarks. She observed that there is a systematic approach to review budgets and make productive budget decisions. Committee members discussed output vs. outcome and efficiency vs. effectiveness wondering how to improve effectiveness efficiently.
- Rep. Scott shared his observation that the budget drives public policy decisions and that the budget process allows for a thorough review of agency operations. He stated that the Emergency Board carries forward the policy the legislature wants to implement and takes care of budget shortfalls. Acknowledging that at times the budget can strain relationships, compromise is key. Rep. Scott maintained support for a biennial budget process indicating that agency staff could be budgeting year-round if they switch to an annual budget process.
- Committee members discussed setting performance measures for the legislative assembly and how that set of standards would be determined.
- When asked about dividing the Joint Ways and Means Committee, Rep. Scott explained that ultimately the committee was joined together again and the required job was accomplished. He acknowledged that coming to a budget decision can be difficult at times.
- Rep. Scott also explained that the legislature doesn't accomplish a lot until they hear the May forecast. He encouraged the committee to consider reaffirming the biennial session with a limited length and start session later, maybe around March or April so that they can focus on the May forecast.
- When asked about partisanship, Rep. Scott indicated that partisanship can't be checked at the door and acknowledged the difficulties of including large groups of people in frank discussions.
- Sen. Gordly discussed the practice of policy bills being tied to approval of the budget. Rep. Scott acknowledged that policy bills have been used in negotiations and that caucus members should have been alerted to the package.
- When asked if setting a limit on the total budget and implementing deadlines and timelines would hinder the budget process Rep. Scott suggested that they might alleviate some difficulties.
- Sen. Richard Devlin joined the discussion and agreed with a comment made by Rep. Scott earlier that Ways and Means members are very knowledgeable about the budget and budget process and recognize the give and take of budgeting. Members who haven't served on Ways and Means aren't as in tune with that process. Sen. Devlin stated that legislative leaders have the ability to split the Ways and Means committee, but suggested that it works better when it is combined. Encourages the practices of policy committee members sitting on Ways and Means.

Possible recommendation on session structure (Proposal #2 – Length of Session and Proposal #3 – Annual Sessions)

- The chair discussed a two step proposal with the committee for retiming the 2007 legislative session and allowing the legislature to establish annual sessions. The recommendation was created after gathering input from committee members about their thoughts on an annual session structure.
- Committee members discussed provisions of the proposal including a session limit of 120 days in the odd year. Some members urged requiring the legislature to meet in 2008, not suggesting that they do so. Members also commented on the amount of detail for session structure the proposal should include as to allow the legislature flexibility. Some members urged experimental session structure efforts on the part of the legislature.
- Commission members advocated for a second session saying that it would allow for refining the budget; an opportunity to review potential ballot measures; and an opportunity to take up policy issues that are studied between sessions.
- Members discussed whether a first session would adjourn sine die or not. Legislative Counsel cautioned that adjourning sine die would allow bills to take effect and allow for computation of the kicker.

- Committee members discussed the flexibility in testing a retimed session in 2007, scheduling session in 2008 and allowing the legislature to determine their best session structure. Comments were made about not allowing bills to carry over between sessions.
- The committee urged that a limit be placed on the length of session. The committee agreed to 120 days in 2007 after the proposed first Monday in April start. Ultimately, the committee agreed to a recommendation to retime the 2007 session and urge the legislature to have a session in 2008.
- As the committee started on the annual session piece of the discussion, members cautioned using a constitutional amendment to set forth a structure and suggested that compressed timelines would concentrate more power with leaders. However, it was also stated that it is hard to attract candidates to the process when they don't know how long they'll have to be in session. Other commission members cautioned that shorter time limits could create a "beat-the-clock" mentality. There is concern that public access to the process could be limited.
- Ultimately the committee decided to take up the annual sessions discussion at a later date after more consideration is given to constitutional amendments and limiting the length of session.

Documents made available to committee members

- Proposals #002 and 003, Process Committee's Session Structure Proposal, staff, 1 p
- Proposals #002 and 003, letter, Randall Edwards, 1 p

MARCH 24, 2006

- Attending in person: Ginny Lang, Chair and Frank Brawner and Hans Linde. Attending by phone: Dave Frohnmayer, Sen. Avel Gordly and Barbara Karmel. Guest member: Sen. Frank Morse.

Continuation of Discussion about Session Structure Recommendation

- The chair reminded committee members that they approved restructuring of the 2007 session and urged the legislature to have a session in 2008. The purpose of the meeting was to reconfirm their initial recommendation and consider an annual session proposal.
- The committee discussed pieces associated with an annual sessions proposal. With regard to extending session beyond limited session, members debated whether it should be a 2/3 or 3/5 majority vote – ultimately, the committee approved a 3/5 majority. The committee also debated whether there should be a per diem penalty for extending beyond a limited session. The committee divided evenly on the issue, therefore chose to remain silent about penalties. Members stated that bills should not be carried over from one session to the next.
- Members spoke of constitutional and statutory limitations, including the kicker and effective dates of measures that trap the legislature into a biennial calendar. However, the legislature can still experiment with annual sessions if they sine die after the first session.
- Members cautioned that limited annual sessions could limit public participation in the process however acknowledged that is not as likely in Oregon as it was observed in Washington.
- With regard to the shorter, even-year session, members discussed whether it should be used to address budget matters or budget and policy matters. The committee agreed that fiscal matters and compelling policy issues, including addressing ballot measures, could be addressed.
- On the issue of recommending a legislative referral to the voters for annual sessions or remaining silent on how the legislature starts annual sessions, the committee agreed to remain silent, but stressed the importance of limited annual sessions. It was stated that the recommended structure should be able to address the problems of the state.

Documents made available to committee members

- Process Committee's Proposal for Session Structure, proposal, staff, 3 pp
- Session Structure, memo from Hans Linde, staff, 4 pp