

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

January 31, 2005 Hearing Room B

8:30 A.M. Tapes 16 - 17

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Sal Esquivel, Vice-Chair

Rep. Mike Schaufler, Vice-Chair

Rep. George Gilman

Rep. Paul Holvey

Rep. Derrick Kitts

Rep. Chip Shields

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

Financial Fraud/Consumer Protection Div. – Informational Meeting

HB 2098 – Public Hearing

HB 2117 – Public Hearing

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
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TAPE 16, A

004	Chair Brown	Calls the meeting to order at 8:33 a.m. Opens the informational meeting on the Financial Fraud and Consumer Protection Division.
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FINANCIAL FRAUD AND CONSUMER PROTECTION DIV. - INFORMATIONAL MEETING

017	Cheryl Pellegrini	Attorney-in-Charge, Financial Fraud and Consumer Protection Division, Department of Justice (DOJ). Submits a memorandum (EXHIBIT C) . Talks about where division gets funding (EXHIBIT C, Page 1) . Explains the Attorney General's Consumer Hotline. Says that the budget reduction led to less consumer education and outreach. Believes this caused a drop, in 2004, in calls to the Consumer Hotline. Addresses how consumers can make complaints to the division and how the division then responds.
105	Pellegrini	Feels that education is more cost effective than litigation. Outlines some of the private industries who work in conjunction with DOJ. Mentions the Unlawful Trade Practices Act.
156	Pellegrini	Elaborates the difference between DOJ and regulatory agencies and refers to page two and three (EXHIBIT C) . Explains that the DOJ works to help regulatory agencies enforce their policies. Mentions the regulatory agencies that DOJ has worked with (EXHIBIT C, Page 3) . Indicates that civil investigative demands look into whether a business practice violates the law. Says that 99 percent of the cases against businesses settle.
220	Pellegrini	Explains the trends in consumer protection (EXHIBIT C, Page 3 - 4) . Talks about the top ten list of consumer complaints. Discusses the bills that will be coming before the committee.
243	Rep. Shields	Asks for a repeat of the measures that will be coming before the committee.
244	Pellegrini	Reiterates the list of bills and explains the nature of each bill. Indicates that the telecommunication businesses have the most complaints levied against them and addresses how HB 2218 will better protect those customers.

275	Chair Brown	Inquires what bill deals with telecommunication businesses.
276	Pellegrini	Clarifies that it is HB 2218.
279	Chair Brown	Asks what HB 2218 does.
280	Pellegrini	Explains further what HB 2218 does. Offers to answer any questions
295	Rep. Schaufler	Asks if consumer fraud has gone up in connection with the growing problem with methamphetamine abuse.
302	Pellegrini	Talks about the relationship between methamphetamine rings and identity theft. Explains how identity information is used as payment for methamphetamines. Adds that they also hear from businesses who have received bad payments and are left having to absorb the cost of these bad payments.
347	Rep. Esquivel	Talks about a real estate agent who was forging documents. Asks why the individual was not brought up on charges and asks if they coordinate with the Real Estate Agency.
352	Pellegrini	Explains that they do not communicate with the Real Estate Department unless DOJ is contacted by them. Talks about how cases are referred to the DOJ. Emphasizes that the division only enforces civil law and not criminal law. Adds that the Real Estate Department may not have thought that the situation needed to be investigated further.
390	Rep. Esquivel	Points out that it is a criminal offense to forge someone's name to a document.
393	Pellegrini	Reiterates that the Financial Fraud/Consumer Protection Division does not enforce criminal law.
398	Rep. Schaufler	Asks if the criminal side of the DOJ is in communication with the civil side of the department.
401	Pellegrini	Affirms that the two divisions are in contact when the cases have overlapping jurisdiction.

423 Chair Brown Asks about gift cards and if people are complaining about them.

TAPE 17, A

001 Pellegrini Talks about the conditions of the gift cards' redemptions and how it became a problem. Explains how companies that were going into bankruptcy and would still sell cards. Discusses how bankruptcy law is changing so that the companies will still have to honor the gift cards. Says that there are seven or eight states that have enacted legislation.

022 Rep. Shields Inquires about the investigation of a trade school called BCTI and Marsh Inc. and the Portland School District.

025 Pellegrini Addresses consumer protection issues and trade schools. Says that it falls under the jurisdiction of the Department of Education. Explains that the DOJ sometimes steps in to identify funds that the school may have so that students can receive refunds or have the credits transferred to another program. Discusses action that is taken against trade schools that have false credential. Refers to Marsh Inc. and says that they have an open investigation under Anti-Trust Laws. Says that they are working in conjunction with the Insurance Division.

060 Chair Brown Closes the informational meeting on the Financial Fraud and Consumer Protection Division and opens the public hearing on HB 2098.

HB 2098 – PUBLIC HEARING

068 Janet Adkins Committee Administrator. Explains HB 2098.

081 Carol Halford Administrator, Oregon Board of Architect Examiners (AIA). Speaks in support of HB 2098. Submits written testimony on behalf of William Seider, Chair, AIA, in support of HB 2098 (**EXHIBIT A**). Explains HB 2098. Feels that education is more cost effective than litigation.

109 Rep. Esquivel Asks why it is a ceiling of \$5,000 for the offense.

115 Halford Says that \$5,000 is not always the amount that is assessed but it is the maximum amount that can be assessed in a civil penalty. Explains that it is a common amount for boards across the state.

128	Rep. Esquivel	Asks if the AIA will collect administrative costs in addition to the \$5,000 maximum.
132	Halford	Says that currently you can only get \$5,000 for each case. Clarifies that HB 2098 will allow the AIA to assess the \$5,000 and then assess the amount of money that it took to pursue the case.
138	Chair Brown	Closes public hearing on HB 2098 and opens the public hearing on HB 2117.

HB 2117 – PUBLIC HEARING

148	Janet Adkins	Committee Administrator. Explains HB 2117. Submits fiscal statement (EXHIBIT G).
181	Kelly Paige	Executive Director, Oregon Board of Investigators (OBI). Submits and summarizes written testimony in support of HB 2117 (EXHIBIT B). Gives history of OBI. Explains what the bill amends (EXHIBIT B, Page 1).
240	Paige	Talks about getting rid of the criminal penalty for not carrying an identification card (EXHIBIT B, Page 1). Continues explaining HB 2117 and what it amends. Talks about desired additional amendments (EXHIBIT B, Page 3).
286	Rep. Schaufler	Wants testimony in regards to 703.460(2) amendment (EXHIBIT B).
288	Paige	Explains how OBI came up with the definition of private investigative activities and looked at the list of exceptions that they had in the statute. Felt that process servers do a lot of investigative activities in their work and took out the exemption for process servers.
311	Rep. Holvey	Asks about the cards that are carried by the private investigator and if they are required to identify themselves.
313	Paige	Explains that the requirement to carry the card or face criminal prosecution was not enforceable. Believes that most private investigators will continue to carry the card.
338	Rep. Holvey	Clarifies the original question.

343	Paige	Explains that they are not required to identify themselves with the card.
351	Rep. Schaufler	Asks if citizens are legally bound to say anything to private investigators.
353	Cynthia Hamilton	Chair, OBI. Says that in her personal experience as a private investigator that she is always quick to identify herself. Speaks to the nature of different types of private investigators and why they may not identify themselves.
370	Rep. Schaufler	Reiterates the original question.
371	Hamilton	Says that a citizen is not legally bound to speak to a private investigator.
376	Rep. Shields	Asks about the three-year lag time for reapplication and if there is an appeal process for those whose licenses have been revoked
383	Paige	Explains that they have had one denial of the license and one revocation in her three years at OBI. Says that they would not have to review the application if it has been revoked should HB 2117 passes.

TAPE 16, B

001	Patricia A Vollbrecht	President, Oregon Association of Licensed Investigators (OALI). Talks about how many people at her company are from out of state. Submits and reads from written testimony in opposition to HB 2117 (EXHIBIT E) .
067	Ann Fischer	Attorney, Washington County. Speaks against HB 2117. Expresses concerns about the quality of investigators in the state and would like to see higher standards for investigators. Believes that HB 2117 lowers the standards for private investigators. Takes issue with the provisional investigators license. Remarks that HB 2117 seems to be written so that a private investigator can have a provisional investigator's license for an indefinite period of time. Says that out-of-state licensees should not be charged.
135	Fischer	Talks about revocation of a license and how soon one can apply under HB 2117. Mentions the issue of actually getting the investigator's file and finds this part of HB 2117 reasonable.

172	Rep. Shields	Asks about the difference between the registration of corporations in statute and what the bills wants the registration to be for private investigators from out-of-state.
179	Fischer	Explains that a corporation maintains a registered agent in the state. Indicates that the agent or business that is designated by the corporation has to know where you are located at all times.
212	Dave Barrows	Legislative Representative, Oregon Association of Process Servers (OAPS) and Burlington North Santa Fe. Talks about line 37 on page two of HB 2117.
220	Aaron Crowe	President, OAPS. Explains that process servers have been in Oregon for 57 years. Believes that it is important for an attorney to be able to hire a process server and private investigator. Speaks to the differences between a process server and a private investigator.
247	Dave Barrows	Asks for the exemption to be re-instated for process servers in line 37 on page two of HB 2117. Says a lot of problems exist in Section 2 of HB 2117. Expresses concern about HB 2117.
286	Chair Brown	Asks if line 44 and 45 on page two and line one on page three of HB 2117 would put the railroad investigators back into the exemption.
290	Barrows	Responds that he does not know if railroad investigators are licensed by the federal government. Clarifies his position and wants more dialogue before the HB 2117 moves forward
300	Rep. Schaufler	Agrees that more conversation needs to occur in regards to HB 2117.
301	Crowe	Refers to the language on line 37 of page two of HB 2117 and explains the amendment OAPS would like to see.
316	Jim Markee	Oregon Collectors Association (OCA). Explains that his industry uses process servers on a regular basis. Refers to subsection 16 on page two of HB 2117 and the negative consequences it will have on landlords. Refers to line 12 through 17 on page one of HB 2117 and believes that the sections definition of investigative services is too broad. Refers to lines 44 and 45 on page two and line one on page three of HB 2117. Says that the collection agency may not be able to locate people who owe money if HB 2117 passes. Believes that the bill has some unintended consequences and thinks that the bill needs to be discussed further.

420	Alan H Crowe	Administrator, National Association of Professional Process Servers. Submits written testimony in opposition to HB 2117 (EXHIBIT D). Gives a history of the organization. Provides background information on the organization.
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TAPE 17, B

001	Crowe	Reads from prepared testimony (EXHIBIT D). Talks about the difficulty process servers have when trying to locate individuals. Speaks in opposition to HB 2117.
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058	Thia Bell	Citizen, Lane County. Submits and reads from prepared testimony in opposition to HB 2117 (EXHIBIT F). Speaks in opposition to HB 2117. Adds that she is concerned that the board members term limits are limited by rule and not by statute.
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144	Chair Brown	Closes the public hearing on HB 2117 and adjourns the meeting at 10:11 a.m.
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EXHIBIT SUMMARY

- A. **HB 2098, written testimony, Carol Halford, 1 p**
- B. **HB 2117, written testimony, Kelly Paige, 3 pp**
- C. **Financial Fraud/Consumer Protection Section, memorandum, Cheryl A Pellegrini, 5 pp**
- D. **HB 2117, written testimony, Alan H Crowe, 1 p**
- E. **HB 2117, written testimony, Patricia A Vollbrecht, 2 pp**
- F. **HB 2117, written testimony, Thia Bell, 1 p**
- G. **HB 2117, fiscal statement, staff, 2 pp**