

**HOUSE COMMITTEE ON**  
**BUSINESS, LABOR, AND CONSUMER AFFAIRS**

**June 03, 2005 Hearing Room B**

**10:00 A.M. Tapes 153 - 154**

**Corrected 10/03/05**

**MEMBERS PRESENT:           Rep. Alan Brown, Chair**

**Rep. Sal Esquivel, Vice-Chair**

**Rep. Mike Schaufler, Vice-Chair**

**Rep. Paul Holvey**

**Rep. George Gilman**

**Rep. Derrick Kitts**

**Rep. Chip Shields**

**STAFF PRESENT:           Janet Adkins, Committee Administrator**

**Katie Howard, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**SB 1026A – Public Hearing and Work Session**

**SB 670A – Public Hearing and Working Session**

**SB 573A – Reconsideration and Work Session**

**SB 618A – Work Session**

**HB 3462 – Work Session**

**SB 118A – Work Session**

**SB 386A – Work Session**

**SB 638 – Work Session**

**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.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 153, A</b>		
003	Chair Brown	Calls the meeting to order at 10:20 a.m. Opens the public hearing on SB 1026A.
<b><u>SB 1026A – PUBLIC HEARING</u></b>		
	Sen. Charles Starr	Senate District 13. Submits written testimony on behalf of Luther Fitch ( <b>EXHIBIT A</b> ).
	Chris Hudgins	Director of State Relations, National Prostate Cancer Coalition. Submits written testimony in support of SB 1026A and comments in support of the SB 1026A ( <b>EXHIBIT C</b> ).
008	Janet Adkins	Committee Administrator. Explains SB 1026A.
017	Sen. Gary George	Senate District 12. Speaks in support of SB 1026A. Talks about the importance of prostate cancer screening exams. States that in the past he has voted against similar legislation but believes that prostate cancer has a large social and economic impact. Notes that prostate cancer killed both his grandfather and father.
032	Chair Brown	Says that he has had a number of good friends that died from prostate cancer.
038	Sen. George	States that screening can be done efficiently. Emphasizes that early detection lowers medical costs.
043	Chair Brown	Indicates that a family doctor told him it is not a matter of if a man will get prostate cancer but when.
045	Sen. George	

Mentions that he watched a documentary that said if a man lives to 85 years of age he will get prostate cancer.

- 048 Sen. Jeff Kruse Senate District 1. Speaks in support of SB 1026A. States that he voted against SB 1026A, because the sunset was taken out of SB 1026A. Says that 25 insurance mandates exist in Oregon. Notes that it is important to review insurance mandates. Agrees with Sen. George that men will get prostate cancer if they live long enough.
- 082 Chair Brown Asks what length of time most sunsets are for insurance mandates.
- 084 Sen. Kruse Responds that most mandates have a six year limit. Asserts that medical technology changes over time.
- 100 Chair Brown Asks if the sunset was discussed.
- 102 Sen. Kruse Indicates that the sunset was discussed in committee and on the floor.
- 109 Rep. Holvey Asks if the prostate cancer exams are every two years or twice a year.
- 114 Sen. Kruse Says that the exams occur every two years. States that if a physician determines that you are at high risk then screenings can be done more often.
- 130 Courtni Dresser Oregon Government Relations Director, American Cancer Society. Submits written testimony in support of SB 1026A (**EXHIBIT B**). Says that the amendment reintroduces the sunset. Believes that -1 amendments should exist and speaks in support of a sunset clause being put SB 1026A. Emphasizes that prostate cancer screenings occur regularly for men with insurance. Notes that passing SB 1026A creates public awareness.
- 155 Chair Brown Closes the public hearing on SB 1026A. Opens the public hearing on SB 670A.

### **SB 670A – PUBLIC HEARING**

- 165 Janet Adkins Committee Administrator. Explains SB 670A.
- 180 Sen. Vicki Walker Senate District 7. Speaks in support of SB 670A. Indicates that she has discovered that medical treatment is different for people with

worker's compensation claims than everyone else. Says that one claimant was not allowed to see their manage care organization's (MCO) documents although she was told she was in violation of worker's compensation laws. Indicates that she, Sen. Walker, had to ask for the document and finally received them. Reads from document that "attending physicians will not act as benefit advocates" for patients and notes that there are several other things that a physician cannot do. Says that the State Accident Insurance Fund (SAIF) has agreed to the language in SB 670A. Notes that SB 670A allows physicians to treat their patients to the best of their ability. Says Management Labor Advisory Committee (MLAC) did not oppose SB 670A.

234 Chair Brown Closes the public hearing on SB 670A. Opens the work session on SB 670A.

**SB 670A – WORK SESSION**

240 Rep. Kitts **MOTION: Moves SB 670A to the floor with a DO PASS recommendation.**

243 **VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown The motion CARRIES.**

250 Rep. Kitts **MOTION: Moves SB 670A be placed on the CONSENT CALENDAR.**

252 **VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown Hearing no objection, declares the motion CARRIED.**

254 Chair Brown Closes the work session on SB 670A. Opens the work session for possible reconsideration of SB 573A.

**SB 573A – RECONSIDERATION AND WORK SESSION**

260 Rep. Esquivel **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on SB 573A.**

264 Chair Brown Explains that since SB 573A was passed to the floor with a do pass recommendation a new situation has come to light.

270 Janet Adkins Committee Administrator. Explains why SB 573A is being brought back to committee. States that there was a missing word in the -A4 amendments. Submits the –A5 amendments (**EXHIBIT D**).

275 Rep. Shields Asks what word is missing.

277 Adkins States that the word credit is missing.

282 **VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

**Chair Brown Hearing no objection, declares the motion CARRIED.**

285 Rep. Esquivel **MOTION: Moves to RECONSIDER the vote by which SB 573A was moved to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the Committee on Ways and Means was RESCINDED.**

287 **VOTE: 6-0-1**

**EXCUSED: 1 - Schaufler**

**Chair Brown Hearing no objection, declares the motion CARRIED and opens a work session on SB 573A.**

290 Rep. Kitts **MOTION: Moves to RESCIND SB 573-A4 amendments dated 5/26/05 and ADOPT SB 573-A5 amendments dated 5/31/05.**

295 **VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

**Chair Brown**            **Hearing no objection, declares the motion CARRIED.**

**300**            **Rep. Kitts**            **MOTION: Moves SB 573A to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**

**304**            **VOTE: 6-0-1**

**AYE:**            **In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown**            **The motion CARRIES.**

**312**            **Rep. Kitts**            **MOTION: Moves SB 573A, as amended, be placed on the CONSENT CALENDAR.**

**315**            **VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown**            **Hearing no objection, declares the motion CARRIED.**

**326**            **Chair Brown**            **Closes the work session on SB 573A. Opens a work session on 618A.**

**SB 618A – WORK SESSION**

**330**            **Janet Adkins**            **Committee Administrator. Explains SB 618A. Submits the –A5 amendments (EXHIBIT E).**

**350**            **Rep. Kitts**            **MOTION: Moves to ADOPT SB 618-A5 amendments dated 06/01/05.**

359 Rep. Holvey Objects to the –A5 amendments. Says that the amendments “water down” SB 618A and makes it optional. States that he will still vote for the bill if the –A5 amendments pass.

360 Diane Garrett Portland and Volunteer, Nursing Women’s Council of Oregon. States that the –A5 amendments were drafted in response to objections from Associated Oregon Industries and some members on the committee. Says that they are trying to keep SB 618A on topic and still raise public awareness about the urgency to raise Oregon’s breastfeeding rates and protect women in the workplace. States that they are amiable to moving SB 618A forward with the –A5 amendments.

**390 VOTE: 4-2-1**

**AYE: 4 - Esquivel, Gilman, Kitts, Brown**

**NAY: 2 - Holvey, Shields**

**EXCUSED: 1 - Schaufler**

**Chair Brown The motion CARRIES.**

**397 Rep. Kitts MOTION: Moves SB 618A to the floor with a DO PASS AS AMENDED recommendation.**

400 Rep. Kitts Thanks Ms. Garrett for her work on SB 618A and says that it is a step in the right direction.

404 Chair Brown Echoes Rep. Kitts’ comments.

**415 VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler’s vote.)

**Chair Brown The motion CARRIES.**

**REP. ROSENBAUM will lead discussion on the floor.**

001 Chair Brown Closes the work session on SB 618A. Opens the work session on HB 3462.

**HB 3462 – WORK SESSION**

005 Rep. Kitts **MOTION: Moves HB 3462 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Budget.**

009 **VOTE: 4-2-1**

**AYE: 4 - Esquivel, Gilman, Kitts, Brown**

**NAY: 2 - Holvey, Shields**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown The motion CARRIES.**

017 Chair Brown Closes the work session on HB 3462. Opens the work session on SB 118A.

**SB 118A – WORK SESSION**

021 Janet Adkins Committee Administrator. Explains SB 118A and the –A6 amendments (**EXHIBIT F**).

038 Rep. Kitts **MOTION: Moves to ADOPT SB 118-A6 amendments dated 05/31/05.**

040 **VOTE: 6-0-1**

**EXCUSED: 1 - Schaufler**

**Chair Brown Hearing no objection, declares the motion CARRIED.**

043 Rep. Kitts **MOTION: Moves SB 118A to the floor with a DO PASS AS AMENDED recommendation.**



046

**VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Schaufler**

**Chair Brown**

**The motion CARRIES.**

**REP. ESQUIVEL will lead discussion on the floor.**

049

Chair Brown

Closes the work session on SB 118A. Opens the work session on SB 386A.

**SB 386A – WORK SESSION**

050

Janet Adkins

Committee Administrator. Explains SB 386A. Submits the –A5 amendments (**EXHIBIT H**).

060

Jerry Managhan

Deputy Administrator, Workers' Compensation Division. Submits written testimony in support of SB 386A and the –A5 amendments (**EXHIBIT G**). Says that SB 386A changes the wage threshold for determining whether a person is permanently and totally disabled. States that SB 386A has a process for rescinding a worker's total and permanent disability benefits. Notes that the –A5 amendments address the concerns of the Management Labor Advisory Committee (MLAC). Explains the –A5 amendments.

118

Rep. Esquivel

**MOTION: Moves to ADOPT SB 118-A5 amendments dated 06/01/05.**

121

**VOTE: 5-0-2**

**EXCUSED: 2 – Kitts, Schaufler**

**Chair Brown**

**Hearing no objection, declares the motion CARRIED.**

125

Rep. Esquivel

**MOTION: Moves SB 386A to the floor with a DO PASS AS AMENDED recommendation.**

128

**VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown The motion CARRIES.**

**REP. KITTS will lead discussion on the floor.**

141 Chair Brown Orders the committee to stand at ease at 11:00 a.m. Calls the meeting back to order at 11:07 a.m. and opens a work session on SB 1026A.

**SB 1026A – WORK SESSION**

164 Janet Adkins Committee Administrator. Explains SB 1026A.

**178 Rep. Kitts MOTION: Moves SB 1026A to the floor with a DO PASS recommendation.**

180 Rep. Shields States that he finds it frustrating that the committee is moving SB 1026A when the House “stopped” a bill on breast screening last night.

187 Rep. Kitts Clarifies that the House moved the breast screening bill to a conference committee and did not stop the bill. Notes that the bill has been delayed.

190 Rep. Shields Says that “delay is in the eye of the beholder”.

**193 VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 – Schaufler**

(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler's vote.)

**Chair Brown The motion CARRIES.**

200 Rep. Kitts Asks if it is the intent of the chair to not hear SB 638 in light of the new amendments.

- 204 Chair Brown Says that he intends to hear SB 638 and the -2 amendments and send it to the floor.
- 206 Rep. Esquivel **MOTION: Moves SB 1026A be placed on the CONSENT CALENDAR.**
- 208 **VOTE: 6-0-1**  
**EXCUSED: 1 – Schaufler**  
  
(NOTE: please see page 9, Tape 153, B, of this tape log for Rep Schaufler’s vote.)
- Chair Brown **Hearing no objection, declares the motion CARRIED and closes the work session on SB 1026A.**
- 211 Chair Brown Orders the committee to stand at ease at 11:12 a.m. Calls the meeting back to order at 11:13 a.m. and opens the work session on SB 638.

**SB 638 – WORK SESSION**

- 213 Rep. Kitts Asks if the -2 amendments are Rep. Holvey’s amendments. Asks if the -2 amendments are a substitute for the -1 amendments.
- 219 Rep. Holvey Submits the -2 amendments (**EXHIBIT I**). Says that only the -2 amendments are needed.
- 227 Chair Brown Asks if Sen. Deckert has seen the -1 and the -2 amendments.
- 230 Sen. Ryan Deckert Senate District 14. Says that he is familiar with the -2 amendments. States that he would prefer to move SB 638 without the amendments, but says that moving SB 638 with the -2 amendments is “better than nothing”. Notes that his concern is that agencies can currently be forced to take an employee back. States that he would rather see the restoration policy completely removed.
- 248 Rep. Kitts Asks if Sen. Deckert likes the -1 amendments. Asks who brought forth the -1 amendments.
- 251 Sen. Deckert

Says that he likes SB 638 as it was originally. States that the Department of Administrative Services (DAS) brought forth the -1 amendments.

- 260 Rep. Kitts Speaks in opposition to the -2 amendments and the -1 amendments. Believes that the -2 amendments undermine the purpose of SB 638.
- 264 Rep. Holvey Explains the -2 amendments (**EXHIBIT I**). States that the -2 amendments allow the agency to restore the employee if they want. Believes that the -2 amendments do reflect the “real world” where employers can keep employees that employers like.
- 302 Rep. Holvey MOTION: Moves to ADOPT HB 638-2 amendments dated 06/03/05.**
- 305 Rep. Kitts Speaks in support of SB 638 and against the -2 amendments. Believes that the original SB 638 does not automatically restore employees. Says that, as a state taxpayer, he wants the best people working for the state. Notes that, when someone takes a promotion, accepting the promotion is a risk that the person assumes.
- 339 Rep. Shields Speaks in support of SB 638 and the -2 amendments. States that providing some option for the employee to be restored to previous position seems like a good middle ground between where DAS is and where Sen. Kitts is.
- 350 Sen. Deckert States that he wants it to be able to occur but does not want it to be in state statute. Talks about how they can come back and rehire the employee.
- 373 Rep. Holvey Asks for DAS to forward and testify. States that he does not believe that DAS is able to hire the person if they decide to quit their management position. Notes that the only way a person moving out of a management position can be rehired is if they go through an application process and that may not be possible. Emphasizes that process would not lead to the best management of resources by the state.
- 410 Rep. Kitts Says that, if someone moves up, SB 638 does not prohibit them from going through the application process for a job they had prior to accepting a management position.
- 418 Susan Wilson

Administrator, Human Resources Division, DAS. Notes that several chapters of current law tell DAS how to go through a hiring process, who can be hired, and how DAS can make decisions.

**TAPE 153, B**

- |     |            |   |
|-----|------------|---|
| 001 | Wilson     | Says that they also have position authority for which they cannot exceed or go outside. Emphasizes that people cannot go and apply for the same job if it is not open. States that they are under very strict limitations.  |
| 008 | Rep. Kitts | Asks if someone gets promoted that they can apply for a state job.  |
| 013 | Wilson     | States that unless the job is vacant, open, and available the person cannot apply for the position.   |
| 014 | Rep. Kitts | Asks, if the position is not vacant and available and come back, what is done with the employee.  |
| 016 | Wilson     | States that the agency may go through a layoff process when the former employee is taken back. Notes that the agency may want the person with more experience and the agency can make the decision about whether to take the person back and layoff a current employee or to move the person to another position. |
| 023 | Rep. Kitts | Asserts that SB 638 does not prohibit a person from applying for a state job.   |
| 031 | Wilson     | Clarifies situations where an employee cannot apply for the old job. Notes that there are positions that are only available through promotion and people would not be able to apply for those positions that they may have had.   |
| 039 | Rep. Kitts | Asks, if other vacancies existed, the person could apply for those positions.   |
| 043 | Wilson     | Talks about a corporate position.   |
| 056 | Rep. Kitts | Asks if SB 638 passed unanimously and if DAS opposed the bill on the Senate side.   |

061	Sen. Deckert	States that DAS did. Says that Ms. Wilson's position does not make sense to him. Notes that the situations that he knows of occur when managers are moved around at the same level and work is created where there is no need for it.
076	Rep. Shields	Asks about the time that it takes to hire someone through a civil service program.
082	Wilson	Responds that no civil service hiring occurs and that the hiring process length depends on the position. Says that the -2 amendments are amicable to DAS.
093	Rep. Schaufler	Speaks in support of SB 638 and the -2 amendments.
097	Rep. Esquivel	Asks why the -2 amendments were not brought forth on the Senate side.
100	Wilson	States that only one public hearing was held on SB 638 and they wanted to see what would happen.
<b>105</b>	<b>Rep. Kitts</b>	<b>MOTION: Moves to TABLE the HB 638-2 amendments dated 06/03/05.</b>
<b>107</b>		<b>VOTE: 3-4-0</b>  <b>AYE: 3 - Esquivel, Gilman, Kitts</b>  <b>NAY: 4 - Holvey, Schaufler, Shields, Brown</b>
	<b>Chair Brown</b>	<b>The motion FAILS.</b>
114	Chair Brown	Asks staff to call the roll on Rep. Holvey's motion to adopt the SB 638-2 amendments.
<b>115</b>		<b>VOTE: 4-3-0</b>  <b>AYE: 4 - Holvey, Schaufler, Shields, Brown</b>  <b>NAY: 3 - Esquivel, Gilman, Kitts</b>
	<b>Chair Brown</b>	<b>The motion CARRIES.</b>

123        **Rep. Kitts**                    **MOTION: Moves to POSTPONE DEFINITELY SB 638 until the next committee meeting.**

125        Sen. Deckert                    Says that -2 amendments get further down the line and states that the Senate has the choice about whether to concur with the House amendments.

129                                    **VOTE: 3-4-0**  
**AYE:                3 - Esquivel, Gilman, Kitts**  
**NAY:                4 - Holvey, Schaufler, Shields, Brown**

**Chair Brown**                    **The motion FAILS.**

133        Rep. Kitts                        Asks that the committee stand at ease.

145        Rep. Holvey                      Calls a point of order about whether the committee has to stand at ease.

147        Rep. Kitts                        States that the chair can stand at ease whenever he chooses.

150        Chair Brown                      Recesses the meeting at 11:36 a.m. Calls the meeting back to order at 11:37.

155        **Rep. Brown**                    **MOTION: Moves SB 638 to the floor with a DO PASS AS AMENDED recommendation.**

157                                    **VOTE: 5-2-0**  
**AYE:                5 - Gilman, Holvey, Schaufler, Shields, Brown**  
**NAY:                2 - Esquivel, Kitts**

**Chair Brown**                    **The motion CARRIES.**  
**REP. HOLVEY will lead discussion on the floor.**

170        Chair Brown                      Closes the work session on SB 638. Re-opens the work session on SB 670A, SB 573A, SB 618A, SB 118A, SB 386A, SB 1026A and HB 3462.

**SB 670A, SB 573A, SB 618A, SB 118A, SB 386A, SB 1026A, and HB 3462 – WORK SESSION**

172            Rep. Kitts            **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. SCHAUFLENER to BE RECORDED as voting AYE on the motions to move SB 670A to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR, move SB 573A to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED and be placed on the CONSENT CALENDAR, move SB 618A to the floor with a DO PASS AS AMENDED recommendation, move SB 118A to the floor with a DO PASS AS AMENDED recommendation, move SB 386A to the floor with a DO PASS AS AMENDED recommendation, and move SB 1026A to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR, and NAY on the motion to move HB 3462 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Budget.**

175            **VOTE: 7-0-0**

Chair Brown            **Hearing no objection, declares the motion CARRIED.**

Rep. Schaufler            **VOTES AYE on the motions to move SB 670A to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR, move SB 573A to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED and be placed on the CONSENT CALENDAR, move SB 618A to the floor with a DO PASS AS AMENDED recommendation, move SB 118A to the floor with a DO PASS AS AMENDED recommendation, move SB 386A to the floor with a DO PASS AS AMENDED recommendation, and move SB 1026A to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR, and VOTES NAY on the motion to move HB 3462 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Budget.**

208            Chair Brown            Closes the work sessions and adjourns the meeting at 11:43 a.m.

**EXHIBIT SUMMARY**



- A. **SB 1026, written testimony, Sen. Charles Starr, 2 pp**
- B. **SB 1026, written testimony, Courtni Dresser, 2 pp**
- C. **SB 1026, written testimony, Chris Hudgins, 1 p**
- D. **SB 573, -A5 amendments, staff, 1 p**
- E. **SB 618, -A5 amendments, staff, 3 pp**
- F. **SB 118, written testimony, staff, 3 pp**
- G. **SB 386, written testimony, Jerry Managhan, 3 pp**
- H. **SB 386, -A5 amendments, staff, 8 pp**
- I. **SB 638, written testimony, staff, 1 p**