

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**March 28, 2005 Hearing Room 357**

**8:30 A.M. Tapes 36 - 38**

**MEMBERS PRESENT: Rep. Bob Ackerman, Chair**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**Rep. Kelley Wirth**

**GUEST MEMBERS: Rep. Wayne Krieger**

**Rep. Greg Macpherson**

**STAFF PRESENT: Sam Sears, Counsel**

**Louann Rahmig, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3085 – Public Hearing**

**HB 2524 – Public Hearing**

**HB 2983 – Public Hearing and Work Session**

**HB 3078 – Public Hearing**

**HB 2545 – 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 36, A</b>		
008	Chair Ackerman	Calls the meeting to order at 8:40 a.m. Announces the order the bills will be heard. Opens a public hearing on HB 3085, which requires state agencies to pay the attorney fees, costs and disbursements in civil cases where they lose and are unable to show that the challenged agency action was substantially justified.

### **HB 3085 – PUBLIC HEARING**

020	Rep. Dennis Richardson	House District 4. Testifies and submits written testimony in support of HB 3085 ( <b>EXHIBIT A</b> ). Cites example of a constituent's arrest.
054	Rep. Richardson	Reads from ORS 183.497 and 20.075 on attorney's fees. States that the courts have reinterpreted "shall" to mean "may" making for an impossible standard for a citizen to overcome.
083	Rep. Richardson	Refers to a court case involving the Boy Scouts and the Portland school district where no attorney's fees were awarded to the Boy Scouts even though they won on every level. Advises that in 1981 an Oregon statute was enacted that was essentially the same as the federal Equal Access to Judgment Act.
103	Rep. Richardson	Explains that HB 3085 reinstates what has been the law since 1981 and makes sure state agencies have a substantial reason to prosecute.
122	Rep. Macpherson	Asks for the statute that is not being amended by HB 3085.
125	Rep. Richardson	Responds with ORS 20.075 which is general information for courts on the awarding of discretionary attorney's fees.
151	Sam Sears	Counsel. Asks if the changes proposed in HB 3085 will bring about the desired effect.
157	Clarence Greenwood	Attorney, Portland, Oregon. Responds that the courts have redefined "shall" in a way that is much less restrictive. States that HB 3085 is trying to spell out what was clear in the legislative intent.
205	Greenwood	

Adds that HB 3085 deletes the discretionary standard that previously appeared in ORS 183.497.

- 224 Chair Ackerman Raises concern that HB 3085 does not appear to allow for the state to file a response to a person seeking a fee award.
- 232 Greenwood Refers to Page 3, Line 4 of HB 3085 which is the same language as in current law.
- 257 Chair Ackerman States that he doesn't see a time line for the state to file a response to the attorney fee petition.
- 271 Greenwood Responds that the normal rules of civil procedure "kicks in" on all court proceedings once the petition is filed.
- 276 Chair Ackerman Prefers that there be a timeline for the state to file a rebuttal.
- 282 Rep. Richardson Comments that they can prepare an amendment to include a reference to the rules of civil procedure.
- 285 Chair Ackerman Asks why Oregon Rules for Civil Procedure 68 (ORCP) is circumvented for the filing of attorney fee petitions.
- 294 Greenwood Replies, to avoid confusion between civil litigation between private parties and agency litigation.
- 305 Chair Ackerman Comments that he views ORCP 68 as the common vehicle for adjudication of attorney fee requests. Asks if expert witness fees would be included.
- 313 Greenwood Answers, that is left up to the court to determine what is reasonable.
- 315 Chair Ackerman Inquires of any other situation where expert witness fees are a cost of recovery under the procedural code.
- 321 Greenwood Responds that he would have to do research but believes costs include expert costs.
- 328 Chair Ackerman Asks if Page 2, Line 12 of HB 3085 is going beyond the normal definition of costs provided in ORCP 68.

341 Rep. Richardson Replies, yes. Explains the goal is to help private citizens.

360 Rep. Macpherson Reviews current and new language. Asks in what way the law is being substantively changed.

388 Rep. Richardson Answers that they are trying to shift the burden of proof to the government to show there is a reasonable basis for an action.

#### TAPE 37, A

015 Greenwood Adds that the main legal change is to clarify that there is only one standard. Suggests reading the Kaib decision. States that the legislature in 1981 wanted a reasonable person standard based on federal law.

046 Rep. Flores Seeks clarification that the discretionary language is to be deleted to conform to federal law with one standard.

055 Greenwood Replies, that is correct.

063 Rep. Flores Asks if there was a difficulty in court interpretation prior to the 1983 decision on the Kaib case.

069 Greenwood Responds that after the mandatory provision was originally adopted, the court of appeals ruled in the Van Gordon case and set down a set of rules they were going to follow. Continues that the Van Gordon case was recognized but not followed in the 2003 Kaib case.

103 Rich Angstrom Oregon Concrete and Aggregate Producers Association. Testifies in support of HB 3085. Comments that agencies are not always right and the cost should not be borne by the defendant. Believes that additional work is needed on HB 3085.

132 Jon Chandler Oregon Home Builders Association. Testifies in support of HB 3085. Encourages the committee to focus on policy issues and to create a level playing field. Offers to work on an amendment.

170 Bob Kerivan Citizen, Cave Junction, Oregon. Testifies and submits written testimony in support of HB 3085 (**EXHIBIT B**).

203 Bud Gienger

Citizen, Tillamook, Oregon. Testifies in support of HB 3085. Describes the circumstances leading up to a stop work order he received from the state.

- 249 Rep. Wirth Asks how many days the stop work order was for.
- 251 Gienger Responds, about six months and the issue is still not resolved.
- 268 Julie Brandis Associated Oregon Industries. Testifies in support of HB 3085. Advises that she was asked by J. L. Wilson (National Federation of Independent Business) to inform the committee of their support of HB 3085.
- 285 Tim Bernasek General Counsel, Oregon Farm Bureau Federation. Testifies and submits written testimony in support of HB 3085 (**EXHIBIT C**). Adds that costs are incurred whether an individual chooses to litigate or to settle.
- 319 Rep. Krieger Doesn't see how they could have been clearer than what is in ORS 183.497(1)(b).
- 330 Chair Ackerman Concurs that HB 3085 has technical problems.
- 335 Sears Introduces written testimony in support of HB 3085 from Gus Meyer, Tillamook, Oregon (**EXHIBIT D**) and Ross Day, Oregonians in Action (**EXHIBIT E**).
- 343 Chair Ackerman Closes the public hearing on HB 3085.
- 347 Chair Ackerman Offers to work with a group on amendments and requests volunteers.
- 353 Chair Ackerman Opens a public hearing on HB 2524.

### **HB 2524 – PUBLIC HEARING**

- 355 Sam Sears Counsel. Explains that HB 2524 and the -1 amendments (**EXHIBIT F**) make several changes in the landlord-tenant law. Advises that the changes were negotiated by the General Landlord-Tenant Coalition.

368 John VanLandingham Attorney, Lane County Law and Advocacy Center. Testifies and submits written testimony on HB 2524 (**EXHIBIT G**). Indicates that there are errors in the -1 amendments needing to be corrected.

413 Shawn Miller Oregon Rental Housing Association. Discusses the work of the Coalition. States that the few technical problems can be fixed quickly.

### **TAPE 36, B**

018 Chair Ackerman Closes the public hearing on HB 2524 and opens a public hearing on HB 2983.

### **HB 2983 – PUBLIC HEARING**

021 Sam Sears Counsel. Explains HB 2983 which lowers the age of persons to whom special rates or services are permitted under the law that prohibits discrimination based on age by a place of public accommodation from 55 to 50.

030 Tim Martinez Oregon Bankers Association. Testifies in support of HB 2983. Provides background of HB 2983.

047 Rick Bennett AARP Oregon. Testifies in support of HB 2983.

056 Chair Ackerman Closes the public hearing and opens a work session on HB 2983.

### **HB 2983 – WORK SESSION**

**059 Rep. Flores MOTION: Moves HB 2983 to the full committee with a DO PASS recommendation.**

**VOTE: 4-0-0**

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

**067 Chair Ackerman The motion CARRIES.**  
**REP. FLORES will lead discussion in the full committee.**

069 Chair Ackerman

Closes the work session on HB 2983 and opens a public hearing on HB 3078.

### **HB 3078 – PUBLIC HEARING**

- 072 Sam Sears Counsel. Explains HB 3078 which requires the Department of Human Services (DHS) to offer parents who do not qualify for appointed counsel arbitration services as an alternative to court hearings when the child is taken into protective custody, when the DHS places the child in substitute care, or at a first appearance before the Juvenile Court; and directs DHS to adopt rules establishing procedures for arbitration services.
- 078 Rep. Gordon Anderson House District 3. Testifies and submits written testimony in support of HB 3078 (**EXHIBIT H**). Cites cases in his district where individuals have spent a great deal of money on child custody litigation cases. Explains that arbitration should save the state money and allow families to be heard in a reasonable setting.
- 120 Kathryn Schubert Citizen, Grants Pass, Oregon. Testifies in support of HB 3078. Cites refusal of needed services due to budget constraints and removal of their children with undue cause. Indicates that they have been in litigation since 2003 and have incurred unbelievable costs.
- 177 David Schubert Citizen, Grants Pass, Oregon. Believes that actions were due to personality conflicts and not in the interests of the children. Continues that the costs have been astronomical for both sides.
- 199 Rep. Anderson States that the Schuberts have lost most of their possessions in their fight with the state. Indicates that an amendment is being sought to correct language in HB 3078. Suggests that if a court decision is required, the arbitration process would be more efficient.
- 242 Rep. Anderson Continues that arbitration services need to be offered by the department but should not be conducted by them.
- 262 Rep. Flores Asks Ms. Schubert if the additional help requested from the state was the basis for removing the children from the home.
- 274 Ms. Schubert

Responds, yes. Continues that the state felt they were not capable of parenting special needs children. States that they and their children are going through a third psychological evaluation, even though the first two were favorable.

- 307 Rep. Anderson Explains the reason the children were removed from the home. Continues that Ms. Schubert had asked for respite care three times.
- 337 Rep. Wirth Asks if respite care was all that was guaranteed, or if other types of assistance had also been guaranteed by the state.
- 342 Mr. Schubert Responds that the state guaranteed all the psychological and physical help the children would need.
- 349 Rep. Wirth Inquires if they received any other assistance that was initially offered.
- 353 Mr. Schubert Replies that one child did not receive adequate help and explains the situation.
- 364 Rep. Wirth Asks if services were requested through their insurance.
- 367 Mr. Schubert Responds that they tried to get the child into another program but were denied.
- 372 Chair Ackerman Comments that changes in HB 3078 are needed, as the cost of arbitration is not mentioned, for example. Offers to work with Rep. Anderson on amendments.
- 400 Mr. Schubert States that time lines for hearings are not being met and believes that arbitration would bypass court calendar issues.

**Note: Tape 37, B was flawed so was not used.**

#### **TAPE 38, A**

- 017 Timothy Travis Oregon Judicial Department. Testifies as neutral on HB 3078. Describes the arbitration process as another layer of decision making. Advises that child abuse and neglect cases are bound by federal law which must be followed to qualify for the money that supports children in foster care. Continues that specific findings must be made



by a judge, so an arbiter's decision must be ratified in a judicial order.

- 065 Travis Asks what court hearings would be covered by arbitration. Indicates that HB 3078 seeks to put the duty of protecting the rights of the people whose children are being taken, into the hands of the people who come into the home and take the children.
- 100 Travis Continues that mediation is needed, not arbitration. Discusses the mediation process.
- 130 Una Swanson Manager, Child Protective Services Program, Department of Human Services (DHS). Testifies and submits written testimony as neutral on HB 3078 (**EXHIBIT I**). States that if HB 3078 were to be enacted, DHS would need to determine if voluntary arbitration is an adequate alternative to a judicial proceeding. Reminds the committee that DHS uses a number of models to seek consensus, such as mediation and family decision meetings.
- 173 Chair Ackerman Refers to **EXHIBIT I**. Asks how the processes described are used and if they are in administrative rule or at the discretion of the department.
- 179 Swanson Responds that Oregon administrative rules describe the meetings to be held beginning at the point of removal, and the Oregon family decision meeting which is a statutory expectation.
- 189 Rep. Garrard Asks if criminal activity was suspected, would arbitration supersede the normal course as it stands now.
- 196 Swanson Responds that if there is a criminal process as well as a dependency matter, DHS would work collaboratively with law enforcement.
- 207 Rep. Garrard Asks if arbitration would “trump” an incident of suspected criminal activity.
- 210 Travis Replies that it would depend on the seriousness of the criminal behavior.
- 234 Chair Ackerman

Closes the public hearing on HB 3078. Requests Rep. Anderson and Ms. Swanson consult about the pre-existing mediation and family decision settlement conference processes. Offers to assist.

248 Chair Ackerman Opens a work session on HB 2545.

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**HB 2545 – WORK SESSION**

251 Sam Sears Counsel. Explains that HB 2545 relates to public records requests. Refers to the -2 amendments submitted by Chair Ackerman **(EXHIBIT J)**.

265 Chair Ackerman States that HB 2545 banned the assessment of legal fees on public information requests. Advises that a work group found that the Attorney General Model Rules of Procedure cover this topic. Explains the -2 amendments.

299 Chair Ackerman **MOTION: Moves to ADOPT HB 2545-2 amendments dated 3/22/05.**

**VOTE: 3-0-1**

**EXCUSED: 1 - Flores**

300 Chair Ackerman **Hearing no objection, declares the motion CARRIED.**

302 Chair Ackerman **MOTION: Moves HB 2545 to the full committee with a DO PASS AS AMENDED recommendation.**

307 Rep. Wirth Asks if the League of Oregon Cities signed up to testify.

309 Chair Ackerman Responds that the League contacted him indicating they had additional suggestions, and he advised them to present them to the full committee.

315 **VOTE: 3-0-1**

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

**EXCUSED: 1 - Flores**

**321 Chair Ackerman The motion CARRIES.**

**REP. ACKERMAN will lead discussion in the full committee.**

**The following prepared testimony is submitted for the record without public testimony:**

Lynne Vanderlinden Secretary, Illinois Valley Water Right Owners Association  
**(EXHIBIT K).**

**326 Chair Ackerman Closes the work session on HB 2545 and adjourns the meeting at 10:25 a.m.**

**EXHIBIT SUMMARY**

- A. HB 3085, written testimony, Rep. Dennis Richardson, 2 pp**
- B. HB 3085, written testimony, Bob Kerivan, 1 p**
- C. HB 3085, written testimony, Tim Bernasek, 2 pp**
- D. HB 3085, written testimony, Gus Meyer, 1 p**
- E. HB 3085, written testimony, Ross Day, 2 pp**
- F. HB 2524, -1 amendments, staff, 77 pp**
- G. HB 2524, written testimony, John VanLandingham, 2 pp**
- H. HB 3078, written testimony, Rep. Gordon Anderson, 2 pp**
  - I. HB 3078, written testimony, Una Swanson, 2 pp**
  - J. HB 2545, -2 amendments, Rep. Bob Ackerman, 1 p**

**The following prepared testimony is submitted for the record without public testimony:**

- K. HB 3085, written testimony, Lynne Vanderlinden, 1 p**

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**March 23, 2005 Hearing Room 357**

**8:30 A.M. Tapes 34 - 35**

**MEMBERS PRESENT: Rep. Bob Ackerman, Chair**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**MEMBER ABSENT: Rep. Kelley Wirth**

**GUEST MEMBERS: Rep. Wayne Krieger**

**Rep. Greg Macpherson**

**STAFF PRESENT: Sam Sears, Counsel**

**Louann Rahmig, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3119 – Public Hearing and Work Session**

**HB 2978 – Public Hearing and Work Session**

**HB 2938 – Public Hearing and Work Session**

**HB 3157 – Public Hearing and Work Session**

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**TAPE/# Speaker Comments**

**TAPE 34, A**

003 Chair Ackerman Calls the meeting to order at 8:37 a.m. and opens a public hearing on HB 3119.

**HB 3119 – PUBLIC HEARING**

008 Sam Sears Counsel. Explains HB 3119 which authorizes county clerks to keep permanent and long-term records of documents that are filed or recorded by the county clerks as computer-based data files instead of microfilm, if the county clerks provide for a regular and routine backup of data files.

012 Rep. Sal Esquivel House District 6. Testifies in support of HB 3119. Explains that current law requires microfilming of county records. Advises that HB 3119 allows backup on disk. Informs that counties would incur considerable savings.

038 Rep. Flores Asks if county clerks currently use both microfilm and computer.

042 Rep. Esquivel Answers, yes.

048 Rep. Garrard Thanks Rep. Esquivel for bringing the issue forward. Advises that Klamath County has storage problems.

054 Rep. Esquivel Comments that this method allows for clearer documents as about 40 percent of microfilm documents are unreadable.

066 Rep. Garrard Asks if clerks would have to record previous information or if they would have an option once the law takes effect.

072 Rep. Esquivel Responds that HB 3119 does not require retroactive action. Indicates that those counties with the technology have already been doing this.

086 Rep. Macpherson Comments that HB 3119 does not reference an ORS chapter for placement or a proposed effective date.

093 Sears Responds that he is unsure why this was not done.

095	Rep. Macpherson	Indicates that if there is a requirement in current law to do back-up microfilming, that language should be shown as deleted.
098	Sears	States that this is voluntary and allows computer recording but does not require it.
103	Rep. Esquivel	Advises that if the current language was deleted, the counties without the computer ability would not be microfilming either. Reiterates that this method is voluntary, if the technology is available.
108	Rep. Macpherson	Comments that there may be confusion.
117	Jan Coleman	Yamhill County Clerk. Informs that this gets its basis from archival law, which is administrative rule by the Secretary of State. Clarifies that microfilming is the only recognized media at present that will last 100 years.
130	Rep. Macpherson	Asks if there is a place in statute now that requires backup by microfilm.
133	Coleman	Responds that statute only talks about retention of records and does not specify microfilming; that is in administrative rule.
137	Rep. Esquivel	States that all counties have old handwritten records.
142	Chair Ackerman	Questions whether this should be an administrative matter rather than law.
145	Rep. Esquivel	Indicates that county clerks have wanted this ability for some time and there have been discussions but nothing has ever been done.
164	Rep. Garrard	Asks if there will be a fiscal impact on the counties.
167	Rep. Esquivel	Answers, yes, but it should be positive cash flow for the counties that can, in fact, have this ability. Reiterates that some counties are using both methods.
172	Rep. Flores	Indicates support but is concerned about where it will be placed in statute.

- 185 Chair Ackerman States he is inclined to move HB 3119 to the full committee and request a housekeeping amendment.
- 190 Rep. Esquivel Believes HB 3119 could be tied into ORS chapter 205, and it should be a simple fix.
- 196 Chair Ackerman Closes the public hearing and opens a work session on HB 3119.

### **HB 3119 – WORK SESSION**

- 202 Rep. Garrard **MOTION: Moves HB 3119 to the full committee with a DO PASS recommendation.**

**VOTE: 3-0-1**

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

**ABSENT: 1 - Wirth**

- 213 Chair Ackerman **The motion CARRIES.**
- REP. GARRARD will lead discussion in the full committee.**

- 217 Chair Ackerman Closes the work session on HB 3119 and opens a public hearing on HB 2978.

### **HB 2978 – PUBLIC HEARING**

- 231 Sam Sears Counsel. Explains that HB 2978 permits courts in dissolution judgments to order revocation of beneficiary designations made by one spouse in favor of the other spouse on certain financial assets. Advises that HB 2978 was previously presented as HB 2292. Refers to the -1 amendments (**EXHIBIT A**) which allow judges to change beneficiary designations also on judgments for separation.
- 243 Tammy Dentinger Member, Oregon State Bar’s Family Law Executive Committee. Testifies and submits written testimony in support of HB 2978 (**EXHIBIT B**). Indicates that HB 2978 has a narrower relating clause than HB 2292. Explains the changes HB 2978 will make. Advises that the -1 amendments make technical and clarifying changes.
- 277 Rep. Flores

Requests clarification that in annulment, legal separation or divorce, new documents do not automatically deal with survivorship or beneficiary provisions.

- 284 Dentinger Responds that, if one chooses to not include, it does not happen automatically.
- 296 Rep. Macpherson Asks about the relationship of HB 2978 to HB 2292 and the -1 amendments.
- 299 Dentinger Indicates the change from HB 2292 to HB 2978 was a narrowing of the relating clause to more specifically define what was intended. Does not believe any amendments were prepared for HB 2292.
- 314 Rep. Macpherson Seeks clarification that the only difference in HB 2292 and HB 2978 is the relating clause.
- 316 Dentinger Answers, yes.
- 318 Chair Ackerman Closes the public hearing and opens a work session on HB 2978.

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**HB 2978 – WORK SESSION**

- 322 Rep. Flores **MOTION: Moves to ADOPT HB 2978-1 amendments dated 3/22/05.**

**VOTE: 3-0-1**

**ABSENT: 1 - Wirth**

- 324 Chair Ackerman **Hearing no objection, declares the motion CARRIED.**

- 326 Rep. Flores **MOTION: Moves HB 2978 to the full committee with a DO PASS**

**AS AMENDED recommendation.**



**VOTE: 3-0-1**

**ABSENT: 1 - Wirth**

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

- 336 Chair Ackerman The motion CARRIES.  
**REP. FLORES will lead discussion in the full committee.**
- 340 Chair Ackerman Closes the work session on HB 2978 and opens a public hearing on HB 2938.

**HB 2938 – PUBLIC HEARING**

- 344 Sam Sears Counsel. Explains HB 2938 which makes technical, conforming, and form and style changes to statutes requiring instruments to be filed with or presented for recordation to county clerks, and clarifies whether specified instruments are to be filed with or presented for recordation to county clerks.
- 363 Jan Coleman Yamhill County Clerk. Testifies on behalf of the Oregon Association of County Clerks. Advises that periodically county clerks review statutes for housekeeping needs.

**TAPE 35, A**

- 004 Coleman Points out that “presented for recording” doesn’t mean the recording happened.
- 015 Chair Ackerman Asks if the language “presented for recording” may be misinterpreted to mean “recording.”
- 017 Coleman Responds, yes. Indicates that the statute needs to say the document got recorded.
- 024 Chair Ackerman Inquires if a definition of the phrase would be sufficient.
- 027 Coleman Replies, yes.
- 032 Rep. Flores

Points out that there are several references to “presented for recording.”

- 034 Coleman Offers to clean up HB 2938 for an amendment.
- 036 Chair Ackerman Asks Ms. Coleman to work with counsel on a proposed amendment.
- 047 Chair Ackerman Closes the public hearing and opens a work session on HB 2938.

**HB 2938 – WORK SESSION**

- 052 Rep. Flores Inquires if there will be work immediately on clarifying language.
- 053 Chair Ackerman Responds, yes.
- 056 Rep. Flores MOTION: Moves HB 2938 to the full committee with a DO PASS recommendation.**

**VOTE: 3-0-1**

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

**ABSENT: 1 - Wirth**

- 062 Chair Ackerman The motion CARRIES.**
- REP. FLORES will lead discussion in the full committee.**
- 063 Chair Ackerman Closes the work session on HB 2938 and opens a public hearing on HB 3157.

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**HB 3157 – PUBLIC HEARING**

- 070 Chair Ackerman Designates Rep. Flores as acting chair.
- 083 Sam Sears

		Counsel. Explains that HB 3157 provides that the duty of county courts or boards of county commissioners to inspect local correctional facilities is discretionary for facilities not operated by the county.
088	Rep. Ackerman	House District 13. Testifies in support of HB 3157. Explains that under current law county commissioners are mandated to inspect correctional institutions that they own and operate, and facilities that they do not own or operate. Refers to the -1 amendments ( <b>EXHIBIT C</b> ) which make the distinction between local correctional facilities owned and operated by the county and local facilities not owned by the county.
113	Rep. Garrard	Comments that he has a problem with HB 3157. Realizes that HB 3157 makes it more voluntary but not sure it is a good idea.
123	Rep. Ackerman	Responds that if a city has a correctional facility, it should be the city council's responsibility to inspect rather than the county.
128	Rep. Garrard	Seeks clarification that HB 3157 is for only facilities not operated by the county.
132	Rep. Ackerman	Replies, correct.
135	Rep. Terry Beyer	House District 12. Testifies that HB 3157 is similar to a bill introduced in the 2003 legislative session. Reiterates that HB 3157 is intended for facilities not run by a county.
148	Rep. Macpherson	Wonders if prior language could be interpreted so broadly as to include state facilities. Seeks clarification of intent.
154	Rep. Ackerman	Answers that counties will have discretionary authority for inspection but not be mandated to do it.
158	Rep. Macpherson	Comments that current language is being construed to apply only to municipal facilities and not a state correction facility.
165	Rep. Ackerman	Agrees.
169	Acting Chair Flores	Closes the public hearing on HB 3157.
171	Chair Ackerman	Opens the work session on HB 3157.

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**HB 3157 – WORK SESSION**

173      Chair Ackerman      **MOTION: Moves to ADOPT HB 3157-1 amendments dated 3/23/05.**

178      Rep. Garrard      Indicates he will give a “courtesy vote” to move HB 3157 to the full committee, but reserves his opinion for the full committee debate.

**VOTE: 3-0-1**

**ABSENT: 1 - Wirth**

181      Chair Ackerman      **Hearing no objection, declares the motion CARRIED.**

189      Chair Ackerman      **MOTION: Moves HB 3157 to the full committee with a DO PASS AS AMENDED recommendation.**

**VOTE: 3-0-1**

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

**ABSENT: 1 - Wirth**

195      Chair Ackerman      **The motion CARRIES.**

**REP. ACKERMAN will lead discussion in the full committee.**

197      Chair Ackerman      Closes the work session on HB 3157 and adjourns the meeting at 9:15 a.m.

**EXHIBIT SUMMARY**

**A. HB 2978, -1 amendments, staff, 1 p**

- B. HB 2978, written testimony, Tammy Dentinger, 1 p**
- C. HB 3157, -1 amendments, staff, 1 p**