

## **HOUSE COMMITTEE ON ELECTION AND RULES**

**June 21, 2005 Hearing Room E**

**1:00 P.M. Tapes 66 - 67**

**MEMBERS PRESENT:           Rep. Derrick Kitts, Chair**

**Rep. Paul Holvey, Vice-Chair**

**Rep. Kim Thatcher, Vice-Chair**

**Rep. Billy Dalto**

**Rep. Debi Farr**

**Rep. Mitch Greenlick**

**Rep. Steve March**

**STAFF PRESENT:           Cletus Moore, Committee Administrator**

**Annetta Mullins, Committee Assistant**

### **MEASURES/ISSUES HEARD:**

**SB 1052 A – Public Hearing**

**HB 3238 – 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> |
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| <b>TAPE 66, A</b> |  |  |
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003 Chair Kitts Calls the meeting to order at 1:32 p.m. and announces that SB 171 C will not be heard today.

006 Chair Kitts Opens a public hearing on SB 1052 A.

**SB 1052 A – PUBLIC HEARING**

Cletus Moore Committee Administrator. Reads summary of S 1052 A.

Chair Kitts Turns the gavel over to Rep. Dalto.

034 Sharon Harmon Executive Director, Oregon Humane Society. Explains that the Oregon Humane Society is an animal welfare organization and has been in operation since 1868 and is not affiliated with any other national, local, regional or other animal protection agency. Presents a prepared statement in support of SB 1052 A (**EXHIBIT A**).

100 Harmon Reviews exemptions (**EXHIBIT A, page 2**). States their activities are limited by law and they have no intention of taking over other responsibilities.

110 Special Agent Terri Tyler Investigator, Oregon Humane Society. Testifies in support of SB 1052 A. Comments on history in enforcement and investigation of animal abuse cases. States the Oregon Humane Society receives thousands of complaints and requests for service a year and their main purpose is to educate the public. States she has worked with various agencies throughout the state to get animals removed from abusive and neglectful situations and successfully prosecute those cases. States they are not interested in carrying firearms and would never put their lives at risk.

172 Chair Kitts Asks if there are provisions in the bill that would prevent a special agent from interfering with a commercial livestock operation or animal research facility—is the intent of the bill to allow these types of investigations.

Harmon Notes the exemptions on page 2 of her testimony (**EXHIBIT A, page 2**).

190 Rep. Greenlick Asks why they need this bill.

Harmon

Explains the Governor's office is increasingly concerned with the issue of liability and training. States they worked with the Governor's office to create a contract to establish the training criteria but this is an improvement over the statute because the Governor's office is quite concerned there are inadequate protections for the state and inadequate training requirements for the officers. States all their commissions expire September 2005.

Rep. Greenlick      Asks if it is up to the governor to appoint the commissioners and if there is anything that prevents the governor from establishing the standards those commissioned must meet.

211      Craig Campbell      Senior Policy Advisor to Governor Kulongoski. States they asked for this legislation to be drafted because currently the Governor does appoint the individuals but has no apparatus to supervise them and make sure the training is in place, nor does the current statute require any such training. States the Governor's office is also concerned about the liability that comes with that responsibility without any statutory provisions to put in guidelines.

Rep. Greenlick      Asks if this bill will ensure that they will have the apparatus to ensure that what is required by the bill will happen.

Campbell      Explains that the bill puts the requirements in place. States that would increase their comfort level.

231      Chair Kitts      Asks if it is up to the citizens to establish gross negligence.

Harmon      Responds that it is not up to the regular citizens or law enforcement to determine what gross negligence is; it is up to the district attorney whether they want to prosecute.

Chair Kitts      Asks if it is up to the agents to decide to bring a case to the district attorney.

Harmon      States that any citizen can bring the case to the district attorney; the agents have no greater or less powers to do that. States there is a good exemption for the livestock industry.

270      Chair Kitts      Commends the Humane Society on their Portland facility.

Rep. Holvey      Asks if other private non-profits enforce state laws.

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|     | Campbell    | States the only other such individuals they appoint are the rail police—those who do railroad work. States he does not know what their responsibilities are and who oversees them.   |
| 287 | Rep. Holvey | Comments that we have county enforcement of animal welfare laws, too, and believes that county employees enforce those laws. Asks what the relationship of the county employees and this non-profit organization is in enforcing laws around the state.  |
|     | Harmon      | Responds she believes there is a great working relationship with animal control agencies in the state. Comments on accepting stray dogs for Multnomah County and transferring animals back and forth. States that they do not mean to take over the responsibilities of the animal control agencies; they simply supply additional resources at no cost to the state. Last year that was \$200,000 worth of funds that the private agency put into the program.  |
| 323 | Rep. Holvey | Asks who enforces the laws, the county or their agency.  |
| 304 | Harmon      | Responds they are enforcing state law. States that county agencies have their limits established by ordinances. Some counties have established animal control agencies that mirror the state statute; most have created their own. States their agents only enforce Oregon Revised Statutes. When it comes to writing a ticket, it depends on who wants to write it. If a local agency is asking for help, they are there to support them because there are enough cases to keep their attention—about 1,000 a year with three officers. States they prefer to educate local law enforcement to give them the tools to do the best job possible. |
| 364 | Rep. Farr   | Asks what kind of complaints they would investigate.   |
|     | Agent Terry | Responds they usually investigate neglect and abuse situations and no veterinarian care.   |
|     | Rep. Farr   | Asks what they hope to accomplish when they are called to a situation.   |
|     | Agent Terry | Explains their efforts to make the owners aware and following up.  |
| 396 | Rep. Farr   | Asks what if there is an issue of income and the animal needs to see an veterinarian.  |

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|     | Agent Terry | Explains there are organizations that can provide temporary help.   |
| 423 | Rep. March  | Comments that the officers were probably set up because there were jurisdictions that would not enforce the laws.   |
|     | Campbell    | States the origins of the statute are probably the posse power that was originally given to the governor to assemble a group of people to carry out law enforcement responsibilities. Believes this tradition began as a result of the inability of local government, who was strapped to deal with existing law enforcement requirements, to also carry on the responsibilities associated with enforcing animal abuse laws.   |
| 470 | Katy Fast   | Oregon Farm Bureau Federation. Testifies in opposition to SB 1052 A. States that currently local law enforcement has the authority to enforce the laws relating to animal welfare in statute and feels the focus should be on how to improve that system and give them the added tools they need to enforce the statutes. States that some proponents' purpose is to restrict commercial agriculture and animal research facilities, and they see no provisions in the bill that would prevent a non-profit from claiming to be involved in animal care for opening an animal welfare investigation, maintaining it for five years, and then obtaining a peace officer authority. There are no provisions in the bill to prevent a humane special agent from interfering with commercial livestock and research facilities. There are exemptions in the animal welfare statutes; however, the exemptions get thrown out the window if there appears to be gross negligence. States gross negligence is interpreted differently and it would be in the hands of the peace officers in control. Also (2) allows a humane special agent to act as a peace officer even in circumstances where they have failed to complete the required training in the time period allowed. It allows them to get a time extension to serve as a citizen agent without the training. Asks why the bill does not limit itself to domestic animals and control of their welfare issues. |

#### **TAPE 67, A**

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| 028 | Barry Burshue | President, Oregon Farm Bureau Federation. Testifies in opposition to SB 1052 A. States he echoes Fast's concerns and those of their organization. States that it appears the governors in the past have had this opportunity and availability. Just because the special agents have been in force for several years, it does not equate to good public policy. Believes it is poor public policy to allow the governor or the legislature to appoint citizen police officers, Regardless of the amount of training they have, they are accountable to no one. It appears there is an unprecedented relationship between the Humane Society and the |
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state through this and past governors to appoint what is, in effect, a private police force.

- 047        Brian Boehringer        Oregon Health and Science University (OHSU). Presents a prepared statement in conditional support of SB 1052 A **(EXHIBIT B)**.
- 071        Rep. Dalto        Ask if Boehringer is equating the Oregon Humane Society with the animal rights organizations.
- Boehringer        Responds they are not and that is why they are offering qualified support for the bill. They do not have a problem with the Humane Society and their current officers, but they are fearful and want to make sure this is tight enough that it does not let others through the gate.
- 095        Rep. Dalto        Asks Fast if she knows that there are police officers on the road who have not been to the academy.
- Fast        Responds negatively.
- Rep. Dalto        Comments that sometimes slots are not available at the police academy and small cities will put citizens in uniforms and put them on the road. Asks if Fast feels police officers are doing animal investigations.
- 108        Fast        Responds she thinks it varies by county. In counties where resources are not available the Humane Society or others step in. States that when we allow citizen law enforcement that is not overseen by a governing agency of police or county law enforcement, she believes there is a different level of standard than when they are regulated by a non-profit, non-government entity.
- 123        Rep. Dalto        Asks if cops are going out to investigate cases of animal abuse.
- Fast        Responds that animal control officers are investigating abuse.
- 127        Rep. Dalto        Asks how many officers the Humane Society has.
- 120        Chair Kitts        Responds that the Human Society has three officers.
- 131        Rep. Dalto

Comments that he does not know how many officers the Humane Society would have under this bill, but hardly imagines that three animal control officers who are primarily engaged in trying to protect dogs and cats from horrible situations in urban areas are going to be traveling the state looking to harass livestock owners and animal husbandry folks and knocking on OHSU's door to figure out what they are doing with their animals.

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| 142 | Chair Kitts | Comments he thinks the concern lies in broadening the ability to bring in more people and that extremist groups may infiltrate those organizations and have the ability that is being facilitated here. There is nothing to necessarily prohibit these actions. |
| 149 | Rep. Dalto  | Asks that the opponents be asked to go on record saying they are concerned with animal rights activists infiltrating the Humane Society.  |
|     | Boehringer  | States that they are not concerned about the infiltration of the Humane Society. They just want to make sure the statute is tight enough that other groups out there do not set themselves up to qualify like the Humane Society.                               |
|     | Chair Kitts | Asks if the agents are paid.  |
|     | Harmon      | Responds affirmatively.   |
|     | Chair Kitts | Asks what the source of the funds is for paying the agents.   |
| 175 | Rep. Farr   | Asks what evidence they have to substantiate there would be unfair allegations made against livestock owners.   |
|     | Fast        | Responds that their concern comes with the definition of the organization, the humane agency, and it is broad enough to allow organizations to have agendas.  |
| 185 | Rep. Farr   | Ask what kind of investigations they are concerned about.   |
|     | Fast        | Responds there are concerns for the livestock industry: branding, castrations. They have heard in previous testimony about farm practices that may be almost veterinarian with suturing and injuries.   |
| 196 | Chair Kitts |   |

Announces that amendments are being drafted and that he is putting together a work group so the opponents and proponents can get together. Asks that the work group work out their concerns this week or report back to him that they cannot agree.

- 208 Mary Botkin American Federation of State, County and Municipal Employees. States the problem is not the Humane Society. The problem is organizations could, with a concerted effort, mirror the Humane Society with a different agenda. They suggest there be some kind of authority to oversee the operation. States that currently animal control officers derive their authority through the sheriff's department and operate under the authority of the sheriff's department and derive their peace officer status under the authority of the sheriff. They have very limited peace officer status authority. It is limited only to enforcement of animal cruelty, neglect, abuse, and control laws. They believe there is a way to do that so that the Humane Society is not damaged, but to clarify and tighten up the authority and determine who is ultimately responsible for their behavior and actions in the communities.
- Chair Kitts Asks if Botkin wants to be a part of the work group.
- Botkin Responds affirmatively. States they just want to tighten up the language, delineate people's authority and make sure there is a chain of command that everybody can agree to.
- 258 Chair Kitts Closes the public hearing on SB 1052 A and opens a work session on HB 3238.

### **HB 3238 - WORK SESSION**

- 264 Cletus Moore Committee Administrator. Reads summary of HB 3238 and explains the HB 3238-13 amendments (**EXHIBIT C**).
- 288 Chair Kitts Comments that previously concerns were raised by Rep. Greenlick on the definitions. Ask Rep. Greenlick to state for the record the definitions.
- Rep. Greenlick Explains that the courts tend to use the Webster's 3rd International dictionary. States that "absurd" is not defined anywhere in the statutes. Reads definition in Webster's 3rd International Dictionary: "marked by an obvious lack of reason, common sense, proportion or accord with accepted ideas".



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| 320 | Rep. Thatcher | <b>MOTION: Moves to ADOPT HB 3238-13 amendments dated 06/14/05.</b>  |
| 323 |               | <b>VOTE: 6-0-1</b><br><b>EXCUSED: 1 - Rep. Dalto</b>   |
|     | Chair Kitts   | <b>Hearing no objection, declares the motion CARRIED.</b>  |
| 324 | Rep. Thatcher | <b>MOTION: Moves HB 3238 to the floor with a DO PASS AS AMENDED recommendation.</b>                                    |
| 328 |               | <b>VOTE: 6-0-1</b><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><b>EXCUSED: 1 - Rep. Dalto</b> |
|     | Chair Kitts   | <b>The motion CARRIES.</b><br><b>REP. THATCHER will lead discussion on the floor.</b>                                  |
| 337 | Chair Kitts   | Asks the committee to stand at ease at 2:25 p.m. while he attempts to locate Rep. Dalto so he can vote on the measure. |
| 337 | Chair Kitts   | Reconvenes the meeting at 2:27 p.m., closes the work session on HB 3238 and adjourns the meeting.                      |

### **EXHIBIT SUMMARY**

- A. SB 1052, prepared statement, Sharon Harmon, 4 pp
- B. SB 1052, prepared statement, Brian Boehringer, 1 p
- C. HB 3238, -13 amendments, staff, 16 pp