

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

June 14, 2005 Hearing Room 357

1:00 P.M. Tapes 2 - 3

(Corrected 7/14/05)

MEMBERS PRESENT: Rep. Wayne Krieger, Chair

Rep. Jeff Barker, Vice-Chair

Rep. Brian Boquist, Vice-Chair

Rep. Linda Flores

Rep. Greg Macpherson

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Bill Taylor, Committee Counsel

Joe O'Leary, Committee Counsel

Cletus Moore, Committee Administrator

Patrick Brennan, Committee Administrator

John Houser, Committee Administrator

Annetta Mullins, Committee Assistant

MEASURES/ISSUES HEARD:

SB 1064 A – Public Hearing and Work Session

SB 806 A – Pubic Hearing

SB 489 A – Public Hearing and Work Session

HB 3492 – Public Hearing and Work Session

HB 3495 – Public Hearing and Work Session

SB 66 – Public Hearing

SB 736 – Public Hearing

SB 303 – 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
TAPE 2, A		
003	Chair Krieger	Calls the meeting to order at 3:03 p.m. and opens a public hearing and work session on SB 1064 A.

SB 1064 A – PUBLIC HEARING AND WORK SESSION

015	Sandy Thiele-Cirka	Committee Administrator. Provides history and summary of SB 1064-A.
019	Sen. Gary George	SD 12. Relates story about his niece, Molly, being placed in a state home because of brain damage due to difficulties at birth. Explains that from the time she was placed in a state home, those who were near her age and close to her age never saw her again. States that when she passed away she was in hands of the state and the family was not able to attend a normal service. Advocates for passage of SB 1064-A so family members can be reunited.
042	David Beam	Advocate for special needs population in Oregon. Tells about experiences of living with Molly at group homes and at the State Hospital and Fairview. States the system is wrong and Oregon needs a better system, and asked that the committee pass the bill for Molly.
055	Sen. George	Adds that David’s brother has played an important role in his life in supporting him in everything he tries to do and that is the story we want to hear over and over again.

The following material is submitted for the record without public testimony:

- Sen. Peter Courtney Submits a prepared statement in support of SB 1064 A (**EXHIBIT A**).
- 064 Kathryn Weit Oregon Developmental Disabilities Coalition. Submits and presents a prepared statement in support of SB 1064 A (**EXHIBIT B**) and **submits** a prepared statement for Jeff West in support of SB 1064 A (**EXHIBIT C**). Comments on West's family attempting to locate a brother they had not seen since 1966. States that the family has reconnected with their brother in Baker, Oregon.
- 110 Beam Again advocates for passage of SB 1064 A.
- Chair Krieger Comments that unless someone has a family to whom something like this has happened, people do not think about it.
- 128 **Rep. Boquist** **MOTION: Moves SB 1064 A to the floor with a DO PASS recommendation.**
- 129 **VOTE: 5-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- Chair Krieger** **The motion CARRIES.**
- REP. FLORES will lead discussion on the floor.**
- 141 Chair Krieger Closes the public hearing and work session on SB 1064 A and opens a public hearing on SB 806 A.

SB 806 A- PUBLIC HEARING

- 150 Bill Taylor Committee Counsel. Reviews provisions of SB 802 A.
- 156 Sen. Gary George SD 12. Testifies in support of SB 806 A. Comments on serving on a county transportation committee. The committee realized there are private, non-profits and other providers who are providing the link to make the system work. States this is a survival bill because with the additional costs the providers are facing, even a small cost of insurance can become the difference between providing service and failing. They have gained the support of the trial lawyers for the bill.
- 175 Doug Bartlett

Community Action Agency of Yamhill County (YCAP). Submits a prepared statement and letters from Commissioner Leslie Lewis, Yamhill Board of County Commissioners, Jay Lynch, Oregon Housing and Associated Services, Inc., Margaret Davidson, Community Connection, and Barbara Brown, Chehalem Valley Senior Citizen Council in support of SB 806 A **(EXHIBIT D)**.

Explains they have worked to restrict the bill so that it only applies to transit providers that are non-profits that receive the majority of their funds from government sources, and so that it only applies to organizations in their transit functions. Explains that the organizations do things other than transit, but the Oregon Tort Claims protection would not apply to those other services; it only applies to transit services.

- 210 Rep. Barker Asks if this is for traffic accidents rather than the case such as where the driver molested a girl.
- Bartlett Responds they operate under the federal transit rules and regulations with regard to hiring and training and supervision of the personnel. States he is not a lawyer and cannot answer the question. Adds that it is not an issue that affects actual claims or damages. This covers the liability portion.
- 212 Bill Taylor Committee Counsel. Explains this could very well cap liability in those issues but it gets into a very interesting analysis. Comments on court case involving the Catholic Church and the Boy Scouts that said when you are dealing with kids, you don't go through the normal analysis of an employer-employee situation. Comments on employer-employee situations. This bill would cap liability in situations as it relates to the employer, but it would not as it relates to the employee.
- 247 Rep. Flores Comments that in the situation mention by Rep. Barker, the driver was driving for an education service district, not for a non-profit.
- 234 Phil Donovan Community Action Directors of Oregon. States he is here to support his client, Doug Bartlett and has nothing further to add.
- 267 Chair Krieger Asks if members have received emails or correspondence on this bill. States he has received two or three.
- 270 Chair Krieger Closes the public hearing on SB 806 A and opens a public hearing and work session on SB 489 A.

- 255 Joe O’Leary Committee Counsel. Explains SB 489 A and the –A3 amendments **(EXHIBIT E)** which deals with when a party is seeking a stay of a PUC order.
- 300 Rep. Billy Dalto HD 21. Explains That SB 489 A streamlines the process of Public Utility Commission (PUC) appeals when a customer has a complaint. An example would be a telephone bill. If a complaint to the PUC is substantiated, there is a finding under the administrative law procedures and the appeals are currently to the Marion County Circuit Court. The Marion County Circuit Court then reviews these cases and makes a decision based on the facts of the case. If the persons want to appeal further, they go to the Court of Appeals. The Court of Appeals, by statute, cannot look at the record that has been generated in the Marion County Circuit Court; they must refer back to the administrative law court to review the record. The Marion County Circuit Court is a wasted step and a burden on the Marion County Circuit Court, which is already charged with interesting cases the legislature sends its way. This would streamline government and help Marion County Circuit Court. Introduces Judge Paul Lipscomb.
- 326 Paul J. Lipscomb Presiding Judge, Marion County Circuit Court. Testifies in support of SB 489-A **(EXHIBIT G)**. States their court is very busy. They get a lot of extra state work and don’t get any additional positions or funds to deal with that. These tend to be very large cases, not routine. Adds that this would help because this is a chunk of business that is rather meaningless. They are charged by law with reviewing the cases from the PUC after a contested case where all the parties have had an opportunity to be heard before the PUC. The cases have to come for review at the Circuit Court level, but they are reviewing the case on the record made in the PUC. Then the appeal goes to the Court of Appeals which also looks to the record before the PUC, not to that record made in the Circuit Court. There is no value added by that step; it is just a needless delay in the procedures of the appeal from the agency determination. It adds to the costs of the litigation and adds to the delay in the litigation, it costs the taxpayers and ratepayers. The only people who benefit from this procedure are the lawyers. It is usually a six-month delay at a minimum and can be as long as a year and one-half or even two years, depending on how complicated the cases are. States that many cases are very complicated. Gives example of case involving Trojan and another in the telecommunications industry. States the bill has passed the House in previous sessions and has now passed the Senate, but has never passed both in the same session.
- 415 Teresa Miller Portland General Electric (PGE). States they support the bill. Explains that the -3 amendments are PGE’s **(EXHIBIT E)**. Their attorneys felt the issue for a request for a stay was overlooked and just

wanted to make sure those were address and any of those requests would go to the Court of Appeals and that is what the -3 amendments do.

- Rep. Macpherson Asks if he is correct that there was a fuller discussion on the bill as passed by the Senate about what would have to be shown in order to get a stay, and that language is being replaced by a general reference for cause shown.
- Teresa Miller Responds that her understanding is that they made this change from the -2 amendments (**EXHIBIT F**) because they wanted to make sure the standard did not change.
- O’Leary Explains criteria for a stay under the Administrative Procedures Act, Chapter 183 and the current law, ORS 756.590. States that the –A 3 amendments maintain the “for cause shown” standard and makes clear that the request for the stay can go directly to the Court of Appeals.

TAPE 3, A

- 046 Rep. Macpherson Comments that he is hearing that the –A3 amendments are to avoid a change in the law that would occur if the House were to pass the bill as it came out of the Senate.
- 052 Commissioner Lee Beyer Public Utility Commission (PUC). States the PUC supports Judge Lipscomb’s request and believes it will save the ratepayers and participants money. Submits a prepared statement in support of SB 489-A (**EXHIBIT H**).
- 071 Shawn Miller PacifiCorp. States they also support SB 489 A with the –A3 amendments.
- 077 Mark Nelson Representing industrial customers of northwest utilities. States they continually have orders representing their interest before the PUC, the Circuit Court and the Court of Appeals and urge support of the bill. It will save countless number of hours and dollars for the betterment of all.
- 086 Rep. Boquist **MOTION: Moves to ADOPT SB 489-A3 amendments dated 05/17/05.**
- 088 **VOTE: 5-0-0**

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

089 Rep. Boquist **MOTION: Moves SB 489 A to the floor with a DO PASS AS AMENDED recommendation.**

094 **VOTE: 5-0-0**

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

Chair Krieger **The motion CARRIES.**

REP. DALTO will lead discussion on the floor.

110 Rep. Barker and Rep. Flores Go to the floor of the House to constitute a quorum.

104 Chair Krieger Closes the public hearing and work session on SB 489 A and opens a public hearing and work session on HB 3492.

HB 3492 – PUBLIC HEARING AND WORK SESSION

Cletus Moore Committee Administrator. Reads summary of HB 3492.

115 Bob Castagna General Counsel and Executive Director, Oregon Catholic Conference. Submits copies of United States Conference of Catholic Bishops web pages titled “*Catholic Campaign to End the Use of the Death Penalty*” and testifies in opposition to HB 3495 (**EXHIBIT I**). Asks that the committee table the bill. States they ask for the abolition of the death penalty rather than its expansion. States they respect police officers and their testimony indicates not disrespect for reserve officers and those in law enforcement but they think this bill is on the wrong side of history. Comments on contents of web page article.

177 Kelly Skye Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 3492 and states they oppose the death penalty and strongly oppose any expansion to the death penalty. States we already have a very expensive death penalty statute. In Oregon, there are 18 ways a person can commit the crime of aggravated murder. States they have no disrespect for reserve officers and do not like to see a differentiation in the value of human life whether the person is a police officer, reserve officer or civilian on the street. States that the legislature should look at the list of those subject to the death penalty

and attempt to reduce the number of ways a person can commit a crime that will result in the death penalty. States the death penalty is one of the most expensive parts of our criminal justice system. Contends that this is not money well spent because we are not executing people in Oregon but we are spending a lot of money prosecuting them.

- 232 Rep. Macpherson Asks if a reserve officer is distinguishable from an active officer.
- Skye Responds she cannot answer the question.
- Chair Krieger Responds that when reserve officers are out with a deputy or city police officer, they have a uniform that says they are a reserve.
- 243 Rep. Barker States that the patch says reserve and the badge is slightly different but someone on the street would not notice the difference.
- Castagna States that the Ecumenical Ministries of Oregon has asked him to speak on their behalf. They also want to go on record in opposition to the HB 3492.

The following material is submitted for the record without public testimony:

- Kathleen Pugh Oregonians for the Alternatives to the Death Penalty. Submits a prepared statement in opposition to HB 3492 **(EXHIBIT J)**
- 254 Rep. Boquist **MOTION: Moves HB 3492 to the floor with a DO PASS recommendation.**
- 257 **VOTE: 5-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- Chair Krieger **The motion CARRIES.**
- REP. BARKER will lead discussion on the floor.**
- 263 Chair Krieger Closes the public hearing and work session on HB 3492 and opens a public hearing and work session on HB 3495.

HB 3495 – PUBLIC HEARING AND WORK SESSION

- Cletus Moore Committee Administrator. Reads summary of HB 3495 and explains the -1 amendments (**EXHIBIT K**).
- 255 Bill Perry Oregon Restaurant Association (ORA). Testifies that the Oregon Brewers Guild, which is the microbreweries association, came to the beer and wine wholesalers and the ORA to talk about the problem and ORA offered assistance. Explains the current bonding process. States that the Oregon Liquor Control Commission (OLCC) came to ORA with the -1 amendments because the tax period under their interpretation was a month instead of a year so they accept the -1 amendments (**EXHIBIT K**).
- 314 Rep. Boquist **MOTION: Moves to ADOPT HB 3495-1 amendments dated 06/14/05.**
- 317 **VOTE: 5-0-0**
- Chair Krieger **Hearing no objection, declares the motion CARRIED.**
- 320 Rep. Boquist **MOTION: Moves HB 3495 to the floor with a DO PASS AS AMENDED recommendation.**
- 322 **VOTE: 5-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- Chair Krieger **The motion CARRIES.**
- REP. BOQUIST will lead discussion on the floor.**
- 301 Chair Krieger Closes the public hearing and work session on HB 3495 and opens a public hearing on SB 66.

SB 66 – PUBLIC HEARING

- Patrick Brennan Committee Administrator. Reviews provisions of SB 66.
- 321 Justin Martin Confederated Tribes of Grand Ronde. Testifies in support of SB 66. States that SB 66 continues to institutionalize the government-to-government relationship ensuring that the good will and future vision found here in Oregon between the tribes and the states will continue. SB 66 is consistent with SB 770 (2001).

- 346 Jana Tindall, Assistant Director, Oregon Parks and Recreation Department. Presents a prepared statement and testifies in support of SB 66 **(EXHIBIT K)**.
- 385 Michael Mason Confederated Tribes of Warm Springs. Testifies in support of SB 66. States they think this is a significant bill bringing the state and the tribes closer. The Warm Springs have a reservation of 660,000 and own an additional 130,000 acres in central Oregon. They own a number of tribal parks and are considering developing others. The trade in SB 66 is an important trade where a modest amount of state dollars can be provided to the tribes and the tribes would open the parks to the entire public.
- 409 Chair Krieger Asks if the witnesses have discussed concerns expressed on the House Floor causing the bill to be referred to this committee.
- Tindall Responds she believes there were concerns about the tax rolls and whether the parks would, in fact, be open to the public. States the parks would be open to the public and she cannot address the tax rolls issue.
- Chair Krieger Asks if there would be a fee to the public to use the parks, and would it just include the new parks or also include the existing ones.
- 466 Tindall Responds that any of their grant recipients can charge a modest fee to help offset some of their operational costs. The fee would have to be a reasonable cost and it would have to be applied to everyone.
- 432 Mason Responds that he has had discussions with Rep. Jenson and other members regarding the tax issues. Comments that tribal members pay federal income tax regardless of where they live. Tribal members pay state income taxes if they live off a reservation or Indian trust lands or work off the reservation. The great number of tribal members in Oregon pay state income taxes as other citizens do.

TAPE 2, B

- 026 Rep. Boquist Asks if tribal members participate in the Oregon lottery equivalent to other Oregonians.
- Martin Responds he imagines they participate in the lottery.

- Mason Comments that gambling has a very long tradition in Indian country. States that the Warm Springs members are active in the lottery.
- 037 Rep. Macpherson Asks if the Parks and Recreation Department has authority to condition a grant for development of a trail on tribal lands for access by the general public.
- Tindall Responds that is part of the grant program. Under the administrative rules, any grant recipient must hold it open for public access.
- 047 Chair Krieger Closes the public hearing on SB 66 and opens a public hearing on SB 736.

SB 736 – PUBLIC HEARING

- 053 John Houser Committee Administrator. Reviews provisions of SB 736 and comments on history of related legislation.
- 071 Rep. Gordon Anderson HD 3. States this is a very important bill to Oregon. It will allow companies to site in the state with a much faster track than previously possible. This allows bio-fuels facilities, bio-diesel and ethanol, and possibly methanol facilities, although that is not in the bill yet, to be sited in Oregon. There are four or five companies that are thinking about building plants and they need to be able to get going as fast as possible. States the contents of SB 736 have been put in HB 3481 and passed out of House Revenue today. The importance of SB 736 is it allows the bill to move quickly because it would go into effect immediately; in HB 3481 there is a taxation relationship which requires 90 days to be finalized.
- 109 Larry Stephens Oregon Bio-Fuel Engineering Company (OBEC). Explains that they are in the process of citing their facility in Oregon and have been actively involved with Rep. Anderson, Rep. Kropf, and Rep. Dingfelder on watching HB 3481 and SB 736. States OBEC supports SB 736. States they are ready to site their facility and the problem is that under the current law for energy facilities it would be two and one-half years before they could turn their spigots on. SB 736 would cut that down to 15-17 months. States there is no revenue cost to Oregon by passing SB 736. Allowing them to site here allows for a \$180 million capital improvement within Oregon, \$300 million revenue over the next five years and 169 full-time family wage jobs in Phase I and Phase II. States they have complete commitment from their investors to move forward and they need SB 736 to move forward.

	Al Herbst	OBEC. States his comments are similar to Stephens' and asks that the committee move the bill forward for passage. States they want to be a leader of renewable fuels in Oregon and they cannot do it without SB 736.
153	Rep. Anderson	Comments that on January 27, Stephens, Herbst and other corporate officials met with the governor and the governor was very optimistic about seeing this company come to Oregon and bring in \$300 million each year, essentially from Europe. The governor said he would get this through in 180 days and June 27 is the 180th day.
160	Mike Grainey	Director, Department of Energy. Testifies in support of SB 736 (EXHIBIT M) . States that the company would come to the Energy Facility Siting Council to demonstrate compliance with the conditions and that would take probably no more than two months compared to a normal review time of a year or more. OBEC has started providing information so they can move quickly.
206	Chair Krieger	Closes the public hearing on SB 736 and opens a public hearing on SB 303.

SB 303 – PUBLIC HEARING

196	Sandy Thiele-Cirka	Committee Administrator. Reviews provisions of SB 303, advises members a copy of the Fiscal Statement (EXHIBIT O) is included in their packet, and that SB 303 has a subsequent referral to Ways and Means.
231	Rocky King	Administrator, Insurance Pool Governing Board. Summarizes a prepared statement in support of SB 303 (EXHIBIT N) .
300	Chair Krieger	Closes the public hearing on SB 303 and adjourns meeting at 4:17 p.m.

EXHIBIT SUMMARY

- A. **SB 1064, prepared statement, Sen. Peter Courtney, 1 p**
- B. **SB 1064, Prepared statement, Kathryn Weit, 1 p**
- C. **SB 1064, prepared statement of Jeff West, submitted by Kathryn Weit, 1 p**

- D. **SB 806, prepared statement and letters, Doug Bartlett, 6 pp**
- E. **SB 489, -A3 amendments, Theresa Miller, 3 pp**
- F. **SB 489, -A2 amendments, Theresa Miller, 3 pp**
- G. **SB 489, prepared statement, Paul Lipscomb, 3 pp**
- H. **SB 489, prepared statement, Lee Beyer, 2 pp**
 - I. **HB 3492, copies of web pages, Bob Castagna, 16 pp**
 - J. **HB 3492, prepared statement, Kathleen Pugh, 1 p**
- K. **HB 3495, -1 amendments, Bill Perry, 4 pp**
- L. **SB 66, prepared statement, Jana Tindall, 2pp**
- M. **SB 736, prepared statement, Mike Grainey, 1 p**
- N. **SB 303, prepared statement, Rocky King, 4 pp**
- O. **SB 303, Legislative Fiscal Statement, staff, 2 pp**