

SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

April 28, 2005
1:00 P.M.

Hearing Room B
Tapes 68 - 69

MEMBERS PRESENT: **Sen. Rick Metsger, Chair**
 Sen. Bruce Starr, Vice-Chair
 Sen. Jason Atkinson
 Sen. Ryan Deckert
 Sen. Laurie Monnes Anderson

STAFF PRESENT: **Theresa Van Winkle, Committee Administrator**
 James Goulding, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2604A – Public Hearing
SB 408A – Public Hearing
SB 922 – Public Hearing
SB 572 – Public Hearing and 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.

TAPE/#	Speaker	Comments
TAPE 68, A		
003	Chair Metsger	Calls the committee to order at 1:15 p.m. Opens a public hearing on HB 2604A.
<u>HB 2604A – PUBLIC HEARING</u>		
010	Chair Metsger	Summarizes previous discussion of this measure in the prior committee meeting.
030	Emily Cedarleaf	Executive Director, Multifamily Housing Council of Oregon. Testifies in regards to her concern with section 3 of HB 2604A.
060	Cedarleaf	Describes complaints of tenants against property owners. Outlines her concerns with the definition of “negligence” and “gross negligence”.
085	Tim Pfau	Oregon AFSCE, Council 75. Presents written testimony in opposition to HB 2604A (EXHIBIT A).
120	Pfau	Relates the progress made in the work group in addressing the problems with the measure as drafted. Feels the definitions of “negligence” and “gross negligence” are the primary point of contention.
150	Pfau	Talks about the investigation process for charges of misconduct.
175	Troy Costales	Citizen representative, Real Estate Board. Testifies in regard to the reaction of the Oregon Real Estate Board to HB 2604.
210	Costales	Observes concerns with changes the measure would make. Feels the -A4 amendments (EXHIBIT B) would resolve those concerns.
240	Sen. B. Starr	Points out his concern with the process. Observes the agency being neutral with the measure in the House and then opposing it in the Senate.

261	Costales	Replies that in the intervening time a different interpretation was made as the measure went to another chamber. Feels all parties were not actively involved, and that they have now had a chance to look at the measure.
290	Sen. Atkinson	Wonders if any other board members testified in the House.
292	Costales	States he cannot speak for other board members, but notes he did not testify.
293	Sen. Atkinson	Details his frustration with the agency over this issue.
303	Chair Metsger	Shares concerns with Sen. Atkinson. Feels the main issue is crafting good public policy. Invites Mr. Conley to speak about the measure.
327	Harrison Conley	Legislative Counsel. Offers legal insight on the drafting of HB 2604 and the amendments.
365	Conley	Details the changing of legal standard within the language of the measure.
395	Conley	Talks about the lack of clarity in establishing some of the standards in the measure.
405	Sen. Monnes Anderson	Observes this measure could only move forward with the -A4 amendments.
TAPE 69, A		
005	Sen. Monnes Anderson	Feels they should proceed with caution as she is concerned about consumer protection.
020	Sen. B. Starr	Questions if there is anything a realtor could be punished for in this bill that they wouldn't be punished for presently.
030	Conley	Replies he doesn't currently see how this measure raises any standards. Offers in some ways it lowers standards.
035	Sen. B. Starr	Points out the current language covers this already.
038	Conley	Responds that it does lower the standard of conduct.
048	Sen. Deckert	Asks if there is a practical example to differentiate "negligence" and "gross negligence".
057	Conley	Observes the difference is the amount of disregard for a professional standard.
065	Sen. Monnes Anderson	Illustrates an example.
076	Conley	Replies he cannot make a definitive judgment, but feels her example would be considered "gross negligence".
094	Sen. Atkinson	Relates examples of extreme "negligence" penalties in Ashland. Feels an additional standard is needed to differentiate error from a deliberate act.
111	Conley	Clarifies the details of the story.
116	Sen. Atkinson	Reiterates the specific points of the story.
118	Conley	Considers the distinction. Points out it is "simple negligence".
128	Chair Metsger	Feels these issues were not adequately expressed in the House. Asks Mr. Taylor to respond on this issue.
152	Scott Taylor	Commissioner, Oregon Real Estate Agency. Presents written testimony to the committee (EXHIBIT C). Details the misinterpretations of his Agency's position of the bill.
190	Chair Metsger	Observes this bill has divided the committee. Wishes to have the issues surrounding this measure solved, before bringing it back for additional work. Closes public hearing on HB 2604A. Opens a public hearing on SB 408A.

SB 408A – PUBLIC HEARING

235	Louie Pitt Jr.	Director Government Affairs and Planning, Confederated Tribes of Warm Springs. Defers to his colleagues to detail the measure.
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247	Chair Metsger	Details the time constraint they are working under. Requests they summarize their position.
254	Jim Noteboom	Tribal Attorney, Confederated Tribes of Warm Springs. Supports the measure with the -A4 amendments. Explains the proposed -A4 amendments (EXHIBIT D).
270	Mark Nelson	Industrial Customers of Northwest Utilities (ICNU). Notes ICNU continues to oppose SB 408 even with the -A4 amendments. Explains the points of contention.
305	Nelson	Outlines his concerns with the measure.
318	Sen. Atkinson	Wonders how they can satisfy both parties.
325	Nelson	Feels there are mechanisms in place with the Oregon Public Utilities Commission (PUC) to accomplish this now.
348	Noteboom	Describes their intent to bring this project in under market. Clarifies the intent of the measure.
375	Sen. Atkinson	Considers the addition of a “safety brake” to the measure. Wants to find some middle ground.
379	Noteboom	Offers they have asked for suggestions on what it will take to move this forward.
401	Chair Metsger	States the PUC would have authority to regulate the process.
405	Jeff Bissonnette	Citizens Utility Board (CUB). Talks about the work done to satisfy their concerns about language in the bill.

TAPE 68, B

003	Bissonnette	Explains his perspective on the measure.
018	Chair Metsger	Asks for input from the committee.
020	Sen. Deckert	Feels that they shouldn’t pass the legislation at this time.
033	Sen. B. Starr	Expresses his preference for finding a compromise.
038	Sen. Atkinson	Advocates having the various parties reach an agreement.
041	Sen. Monnes Anderson	Describes her concern with rate payers subsidizing this project.
045	Chair Metsger	Feels it is a great proposal, but the details are not yet to a point where it can be moved forward. Closes the public hearing on SB 408A. Opens a public hearing on SB 922.

SB 922 – PUBLIC HEARING

062	Jim Gardner	Hertz Corporation. Notes Hertz’s approval of the -2 amendments (EXHIBIT E).
085	Chair Metsger	Asks Mr. Elkins to describe the contentions with the -2 amendments.
087	Al Elkins	Car and Truck Rental Leasing Association of Oregon. Details the reasons he opposes the amendments.
109	Neil Jackson	Oregon Trial Lawyers. Discusses the changes in the language.
123	Steve Murrell	State Farm Insurance. Explains what they were trying to do with the -2 amendment language.
129	Chair Metsger	States that many parties are in agreement. Wonders what Mr. Elkins is specifically objecting to.
133	Al Elkins	Replies in regard to the concerns of those he presents. Offers he does not yet have return correspondence to the exact objections in the measure.
140	Sen. Monnes Anderson	Considers the language to the -2 amendment that is being objected to.
151	Jackson	Expresses his view on the measure and the amendment that was crafted.
170	Murrell	Explains the problem they set out to solve. Details the crafting of the insurance coverage language in the bill.
191	Chair Metsger	Discusses his support for this measure and that more work is

SB 572 – PUBLIC HEARING

215	Chair Metsger	needed. Closes public hearing on SB 922.
230	Brian DeLashmutt	Notes the proposed -7 amendments now before the committee (EXHIBIT F). Declares a potential conflict of interest as his firm works with nurses that would be impacted by this measure. Oregon Nurses Association (ONA). Presents two memos and an e-mail to the committee (EXHIBIT G , EXHIBIT H , and EXHIBIT I).
260	DeLashmutt	Describes the changes made with the -7 amendments.
290	DeLashmutt	Details the compromises reached with the various parties.
325	DeLashmutt	Talks about the process of crafting new language to the measure.
350	Chair Metsger	Thanks Mr. DeLashmutt for his testimony. Applauds his work on this issue.
385	Bruce Bishop	Oregon Association of Hospitals and Health Systems (OAHHS). Provides written testimony in opposition to SB 572 (EXHIBIT J).
410	Bishop	Continues to discuss his problems with the language of the -7 amendments.
TAPE 69, B		
005	Sen. Monnes Anderson	Ask what part of the amendment he is referring to.
006	Bishop	Clarifies. Continues his testimony in opposition to SB 572.
037	Bishop	Feels some of the provisions are overly broad.
050	Dave Fiskum	Providence Health System. Testifies in opposition to the measure. Submits a letter from Kathy Johnson (EXHIBIT K). Notes police reports are already made when incidents occur.
070	Fiskum	Oregon Association for Home Care (OAHC). Presents written testimony (EXHIBIT L). Expresses her concerns with the measure. Addresses the changes in the -7 amendments.
092	Sarah Reeder	Relays the difficulties facing the home health industry in rural areas. Talks about the additional constraints this legislation would place on them. Notes the previous effort to remove home health care from the bill in the -1 amendments (EXHIBIT M).
125	Reeder	Mentions his concerns over the penalties included in the measure.
141	Fiskum	Executive Director, Oregon Advocacy Center. Presents written testimony in opposition to SB 572 (EXHIBIT N).
145	Bob Joondeph	Asks that as the measure moves through the process there will be a chance to further refine the language.
167	Chair Metsger	Superintendent, Oregon State Hospital. Opposes the measure as drafted and the -7 amendments. Asks if the state police will be testifying.
170	Marvin Fickle	Notes their previous testimony and that they are working with Rep. Olson on that component.
174	Chair Metsger	Comments on the difficulty of implementing this measure.
176	Fickle	Wonders if he has read the changes made in the -7 amendments.
200	Chair Metsger	Points out the language changes.
218	Fickle	Appreciates the attempts to address this issue, but feels it does accomplish enough.
225	Chair Metsger	Expresses his intent to move this measure forward. Acknowledges there are refinements to be made in the other chamber. Closes the public hearing on SB 572. Opens a work session on SB 572.

SB 572 – WORK SESSION

244	Sen. B. Starr	MOTION: Moves to ADOPT SB 572-7 amendments dated 4/28/05.
246	Sen. Monnes	Expresses her concern for patient safety as well as hospital staff safety.
266	Anderson	
	Sen. Atkinson	Declares a potential conflict of interest as his wife serves on a nursing board. Offers he does not like moving policy ahead knowing there is still work needing to be done. Acknowledges they are running out of time and that this is an important issue.
269	Sen. Deckert	Expresses his desire to find a way to compromise on the home health care portion of the measure.
279	Sen. Monnes	Agrees with Sen. Deckert's statement. Relays some of her personal experience in the home health care profession.
	Anderson	
296		VOTE: 5-0-0
	Chair Metsger	Hearing no objection, declares the motion CARRIED.
297	Sen. B. Starr	Wonders if they wish to further discuss the -1 amendments.
299	Chair Metsger	Feels they are not consistent with the rest of the measure.
304	Sen. B. Starr	MOTION: Moves SB 572 to the floor with a DO PASS AS AMENDED recommendation.
308	Sen. B. Starr	Concurs with earlier statements that there is more work to be done on this measure.
315	Chair Metsger	Agrees that there is additional work to be done. Feels in the interest of time it is important to move it forward.
330		VOTE: 4-1-0
		AYE: 4 - Deckert, Monnes Anderson, Starr B., Metsger
		NAY: 1 - Atkinson
	Chair Metsger	The motion CARRIES.
		SEN. METSGER will lead discussion on the floor.
332	Chair Metsger	Closes the work session on SB 572. Adjourns the committee at 3:03 p.m.

EXHIBIT SUMMARY

- A. HB 2604A, Written testimony, Tim Pfau, 10 pp
- B. HB 2604A, -A4 amendments, staff, 1 p
- C. HB 2604A, Written testimony, Scott Taylor, 2 pp
- D. SB 408A, -A4 amendments, staff, 2 pp
- E. SB 922, -2 amendments, staff, 1 p
- F. SB 572, -7 amendments, staff, 7 pp
- G. SB 572, Memo dated 4-7-05, Brian DeLashmutt, 2 pp
- H. SB 572, Memo dated 4-19-05, Brian DeLashmutt, 1 p
- I. SB 572, E-mail correspondence, Brian DeLashmutt, 1 p
- J. SB 572, Written testimony, Bruce Bishop, 10 pp
- K. SB 572, Letter from Kathy Johnson, Dave Fiskum, 2 pp
- L. SB 572, Written testimony, Sarah Reeder, 7 pp
- M. SB 572, -1 amendments, staff, 1 p
- N. SB 572, Written testimony, Bob Joondeph, 2 pp