

## SENATE COMMITTEE ON COMMERCE

March 01, 2005  
3:10 P.M.

Hearing Room C  
Tapes 23 - 24

**MEMBERS PRESENT:**     **Sen. Floyd Prozanski, Chair**  
                                  **Sen. Roger Beyer, Vice-Chair**  
                                  **Sen. Ginny Burdick**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Doug Whitsett**

**STAFF PRESENT:**       **Anna Braun, Committee Administrator**  
                                  **Karen Scoffield, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**SB 596 – Public Hearing**  
**SB 426 – Public Hearing**  
**SB 576 – Public Hearing**  
**SB 142 – Public Hearing and Work Session**  
**SB 148 – Work Session**

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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.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 23, A</b>		
005	Chair Prozanski	Calls the meeting to order at 3:20 p.m. Opens public hearing on SB 596.
<b><u>SB 596 – PUBLIC HEARING</u></b>		
015	Sen. Morse	Senate District 8. Discusses the Wage Security Fund and the intent of SB 596. Testifies in support of SB 596.
050	Chair Prozanski	Recesses public hearing on SB 596 and opens public hearing on SB 426.
<b><u>SB 426 – PUBLIC HEARING</u></b>		
060	Anna Braun	Committee Administrator. Gives an overview of SB 426.
070	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME). Discusses and submits written testimony in support of SB 426 ( <b>EXHIBIT A</b> ).
105	Chair Prozanski	Mentions the authorization card in EXHIBIT A and requests that the line requesting the social security number be taken off.
110	Botkin	Remarks that they plan to do this as well as take off other items to help avoid identity theft.
115	Sen. Whitsett	Inquires if Botkin would condone electing political officials by collecting signed intent cards by fifty (50) percent of the population.
117	Botkin	Responds.
120	Sen. Whitsett	Inquires what the difference would be.
123	Botkin	Discusses response.
128	Sen. Whitsett	Inquires if Botkin would reject the idea of a free election where a ballot is signed in privacy.
130	Botkin	Answers that this is voting to form a union, not to elect a public official.

133	Sen. Whitsett	Responds that he is making an analogy to point out that if a private election is appropriate for political elections, it should be the same for union elections.
135	Sen. Beyer	Comments on Botkin’s testimony and inquires if SB 426 mandates what is now permissive in current law.
140	Botkin	Answers, yes.
145	Sen. Beyer	Inquires if the bill is necessary to mandate current law.
147	Braun	Answers, yes that it makes a “may” a “shall.”
150	Sen. Beyer	Inquires if SB 426 was amended to reverse it’s purpose, would it disband the union.
151	Botkin	Answers, no. Discusses that one of their problems is that taxpayer’s money is spent by employers to fight union organizing.
165	Richard Schwarz	Executive Director, American Federation of Teachers – Oregon. Discusses and submits written testimony in support of SB 426 <b>(EXHIBIT B)</b> .
280	Joe Schaeffer	Service Employees International Union (SEIU). Testifies in support of SB 426.
325	Tricia Smith	Government Relations Specialist, Oregon School Employees Association (OSEA). Discusses and submits written testimony in support of SB 426 <b>(EXHIBIT C)</b> .
410	Matt Swanson	Organizing Coordinator, Oregon American Federation of Labor Congress of Industrial Organizations (AFL-CIO). Discusses and submits written testimony in support of SB 426 <b>(EXHIBIT D)</b> .
<b>TAPE 24, A</b>		
025	George Barry	Labor Relations Administrator, City of Salem, Oregon. Discusses and submits written testimony in opposition to SB 426 <b>(EXHIBIT E)</b> .
050	Ron Wilson	Executive Director, Oregon School Board Association. Discusses and submits written testimony in opposition to SB 426 <b>(EXHIBIT F)</b> .
100	Wilson	Discusses bargaining units. Summarizes and concludes.
145	Sen. Whitsett	Inquires if Wilson feels that employees could be influenced by pro union peer pressure without a free secret ballot election.
150	Wilson	Answers, yes. Comments that it is a definite possibility.
152	Chair Prozanski	Inquires regarding no. 1 in Wilson’s testimony regarding local control.
160	Wilson	Discusses response.
180	Chair Prozanski	Remarks that he does not see from his perspective where they would gain or lose local control under this process, but maybe it is a difference of opinion.
183	Wilson	Comments that perhaps it is a difference of opinion. Remarks that the ability to help construct who is in or out of the bargaining unit is a critical element of local control as far as they are concerned.
195	Tom O’Connor	Canby Utility Board, Clackamas, County, Oregon. Testifies in opposition to SB 426.
230	John Powell	Oregon State Sheriff’s Association. Comments that he has similar concerns to O’Connor in opposition to SB 426.
240	Chair Prozanski	Closes public hearing on SB 426 and reopens public hearing on SB 596.

**SB 596 – PUBLIC HEARING**

250	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Testifies in support of SB 596. Discusses the monetary status of the Wage
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300	Marcia Ohlemiller	Security Fund and the need for SB 596. Legal Policy Advisor, BOLI. Discusses and submits written testimony in support of SB 596 ( <b>EXHIBIT G</b> ). Provides background to SB 596 and discusses current law. Discusses the ability of SB 596 to elevate the status of Wage Security Fund liens.
370	Sen. Whitsett	Inquires why labor liens should have priority over items such as goods and construction service liens.
375	Gardner	Answers that labor liens are for employees who actually did the work and are the most affected.
385	Sen. Whitsett	Comments that people that provided other material goods would feel differently.
390	Gardner	Responds that material providers typically have other clients, whereas the employee works solely for that company and have no other source of income.
398	Sen. Whitsett	Remarks that Gardner makes a valid point.
400	Chair Prozanski	Closes public hearing on 596 and opens public hearing on SB 576.

**SB 576 – PUBLIC HEARING**

420	Anna Braun	Committee Administrator. Provides an overview of SB 576.
<b>TAPE 23, B</b>		
010	Annette Talbott	Deputy Commissioner, Bureau of Labor and Industries (BOLI). Submits written testimony on behalf of Dan Gardner in support of SB 576 ( <b>EXHIBIT H</b> ). Testifies in support of SB 576.
065	Martin Taylor	Oregon Nurses Association. Testifies in support of SB 576.
095	Sen. Beyer	Comments that the language of SB 576 is not clear.
105	Talbott	Comments that they want everyone to practice in their scope. Remarks that an amendment could easily be written.
110	Sen. Beyer	Provides a suggestion of where to amend the language of SB 576.
120	Chair Prozanski	Clarifies Sen. Beyer’s concerns.
121	Sen. Beyer	Responds.
130	Taylor	Remarks that nurses often act under a delegated authority.
140	Sen. Whitsett	Comments on the need to amend SB 576 to clarify that a registered nurse does not have the ability to diagnose and prescribe medication.
145	Chair Prozanski	Asks for clarification and for the amendment to be drafted.
160	Sen. Beyer	Inquires regarding who signs paperwork regarding hospitalization.
165	Chair Prozanski	Responds to Sen. Beyer’s question.
170	Talbott	Remarks that in the case of hospitalization they still rely on the primary care provider because they need to know the nature of the condition of the patient.
175	Chair Prozanski	Closes public hearing on SB 576 and opens public hearing on SB 142.

**SB 142 – PUBLIC HEARING**

192	Anna Braun	Committee Administrator. Provides an overview of SB 142. Introduces the -1 amendments to SB 142 ( <b>EXHIBIT I</b> ).
200	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 142 ( <b>EXHIBIT J</b> ).
225	Shani Fuller	Manager, Policy, Rules and Legislative Section, Oregon Child Support Program - Department of Justice. Discusses and submits written testimony in neutrality to SB 142 ( <b>EXHIBIT K</b> ).

260	Sen. Burdick	Inquires what employers do with money that is left over after paying wages.
265	Fuller	Responds.
270	Sen. Burdick	Asks if it is a crime if the money is kept.
275	Annette Talbott	Deputy Commissioner, BOLI. Responds to Sen. Burdick's comment. Corrects the statute in the second paragraph of EXHIBIT J. Changes the statute to ORS 25.424.
300	Sen. Burdick	Discusses need of penalties for employers using the money for their own use.
303	Gardner	Comments that due to budgeting this may be a lower priority for the District Attorney, whereas BOLI could remedy the situation faster by sending a letter.
312	Sen. Burdick	Agrees.
315	Sen. Beyer	Inquires regarding the civil penalty for violation.
318	Talbott	Answers that it is only being proposed for this particular type of unlawful deduction.
322	Sen. Beyer	Inquires why it is needed for this one and not the others.
325	Gardner	Responds that they need it because it is really happening and they need the authority to assess a higher penalty to get the employer into compliance.
345	Sen. Beyer	Comments on previous testimony.
355	Chair Prozanski	Responds to Beyer's comments.
365	Sen. Beyer	Comments on disagreement of making one unlawful deduction to payroll more important than other deductions.
375	Gardner	Remarks that it is a violation of a court order for an individual to not pay child support and other deductions are not a violation.
385	Matt Minahan	Dads America. Testifies in support of SB 142. Discusses penalties associated with non payment of child support.
<b>TAPE 24, B</b>		
010	Sen. Whitsett	Inquires why a misappropriation of court ordered withholding would not constitute a contempt of court.
014	Chair Prozanski	States understanding.
017	Sen. Ringo	States opinion that it is contempt of court, but he doesn't know how helpful it would be to an individual in this case.
<b>The following prepared testimony is submitted for the record without public testimony:</b>		
	David A. Schuck	Attorney, Bailey, Pinney & Associates, LLC. Submits written testimony in support of SB 142, recommending amendment <b>(EXHIBIT L)</b> .
030	Chair Prozanski	Closes public hearing and open works session on SB 142.
<b><u>SB 142 – WORK SESSION</u></b>		
032	Anna Braun	Committee Administrator. Discusses -1 amendments.
043	Sen. Beyer	<b>MOTION: Moves to ADOPT SB 142-1 amendments dated 02/18/05.</b>
		<b>VOTE: 5-0-0</b>
	<b>Chair Prozanski</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
047	Chair Prozanski	Remarks that the committee is waiting on a final fiscal impact statement and will not move further on SB 142 at this time. Closes work session on SB 142 and opens work session on SB 148.
<b><u>SB 148 – WORK SESSION</u></b>		
060	Anna Braun	Committee Administrator. Gives an overview of SB 148. Discusses previous testimony on SB 148.
070	Sen. Burdick	Inquires if a fiscal impact statement has been issued.

073	Chair Prozanski	Inquires regarding fiscal impact statement.
080	Braun	Answers that a fiscal impact statement has been issued and there is no fiscal impact to SB 148.
<b>085</b>	<b>Sen. Ringo</b>	<b>MOTION: Moves SB 148 to the floor with a DO PASS recommendation.</b>
	<b>Sen. Ringo</b>	<b>VOTE: 3-2-0</b>
		<b>AYE: 3 - Burdick, Ringo, Prozanski</b>
		<b>NAY: 2 - Beyer, Whitsett</b>
	<b>Chair Prozanski</b>	<b>The motion CARRIES.</b>
		<b>SEN. PROZANSKI will lead discussion on the floor.</b>
100	Chair Prozanski	Discusses upcoming meetings. Closes work session on SB 148. Adjourns meeting at 4:55 p.m.

## **EXHIBIT SUMMARY**

- A. **SB 426, written testimony, Mary Botkin, 2 pp**
- B. **SB 426, written testimony, Richard Schwarz, 5 pp**
- C. **SB 426, written testimony, Tricia Smith, 3 pp**
- D. **SB 426, written testimony, Matt Swanson, 2 pp**
- E. **SB 426, written testimony, George Barry, 2 pp**
- F. **SB 426, written testimony, Ron Wilson, 4 pp**
- G. **SB 596, written testimony, Marcia Ohlemiller, 2 pp**
- H. **SB 576, written testimony of Dan Gardner, Annette Talbott, 2 pp**
- I. **SB 142, -1 amendments, staff, 1 p**
- J. **SB 142, written testimony, Dan Gardner, 2 pp**
- K. **SB 142, written testimony, Shani Fuller, 1 p**
- L. **SB 142, written testimony, David A. Schuck, 2 pp**