

SENATE COMMITTEE ON JUDICIARY

April 14, 2005
1:00 P.M.

Hearing Room 343
Tapes 109 - 110

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

MEMBER EXCUSED: **Sen. Charlie Ringo**
 Sen. Vicki Walker

STAFF PRESENT: **Joe O'Leary, Counsel**
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 1011 – Public Hearing
 SB 198 – Work Session
 SB 990 – Public Hearing
 SB 850 – Work Session
 SB 264 – 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 109, A		
003	Chair Burdick	Calls the meeting to order at 1:35 p.m. and opens a public hearing on SB 1011.
<u>SB 1011 – PUBLIC HEARING</u>		
009	Joe O'Leary	Counsel. Describes SB 1011 relating to providing a statute of limitations for injury or death resulting from the use of medication that is intended to inhibit the enzyme known as cyclooxygenase-2.
025	Brad Higbee	Vioxx Victims United. Submits a packet on SB 1011, a sheet on the statute of limitations gap, and a history of HB 2080 and testifies in support of SB 1011 (EXHIBITS A – C).
062	Higbee	Discusses the testimony relating to the statute of limitations gap.
086	Higbee	Talks about the previous legislative session and how they dealt with this issue.
135	Higbee	Stresses that due to the statute of limitations, some people cannot seek lawsuits relating to their injuries.
147	Jon Molton	Eugene, Vioxx Victims United. Testifies in support of SB 1011. Details his personal story involving the use of Vioxx.
196	Mike Yukert	Testifies in support of SB 1011 with his wife Toni. Discusses his wife's stroke and how it has affected their lives. Comments on Oregon's limited statute of limitation on these issues.

240	Jamie Larumi	Expresses their desire to have their day in court. Testifies in support of SB 1011 with her husband Kal. Talks about her husband's stroke that affected their lives.
290	Larumi	Advocates for the ability to seek justice in court, and how Oregon's limited statute of limitations refuses them that chance.
317	Higbee	Submits two studies on Vioxx and COX-2 Inhibitor drugs (EXHIBITS D & E) .
347	Kristi Schaefer	Past President, Brain Injury Association of Oregon. Testifies in support of SB 1011. Talks about the daily medical costs for individuals who use faulty or improperly tested pharmaceutical products.
383	Higbee	Concludes that the gap in the statute of limitations is an extremely important issue that needs to be addressed, and only a handful of states have enacted similar laws.
411	Sen. Prozanski	Asks about when these companies first learned about the possibility of their drug negatively affecting the individuals using them.
423	Higbee	Addresses the two studies submitted earlier to point out when the evidence started showing up that described a possible negative impact from the use of these drugs (Exhibits D & E) .
455	Jim Gardner	PhRMA. Submits testimony and a staff measure summary on HB 2080A and testifies in opposition to SB 1011 (EXHIBITS F & G) .

TAPE 110, A

040	Gardner	Discusses the hardships created by this statute of limitations, but stresses that there needs to be certain curbs on litigation that would lead to continually increasing the statute.
049	Chair Burdick	Asks if knowledge of the ill effects of these Cox-2 inhibitors was known during the last session.
060	Gardner	Replies that this issue was most likely not known at the time.
062	Chair Burdick	Declares that it is the job of the Legislature to address new knowledge when it becomes available.
068	Gardner	States that when you impose a statute of limitations and draw a cutoff line, you will always be hurting some people.
070	Sen. Prozanski	Talks about the House Judiciary Committee last session and their decision on HB 2020A. Discusses the amendment on that bill.
092	Gardner	Comments on the House amendment from the 2003 Legislative session regarding HB 2020.
115	Teresa E. A. Teater	Clackamas County. Submits testimony and testifies in support of SB 1011 (EXHIBIT H) .
182	Chair Burdick	Commends the witness on her testimony.
185	Ed Johnston	Disabled. Testifies in support of SB 1011. Explains his status as a guinea pig during the last several years for these pharmaceutical companies who do not properly test the drugs they endorse.
218	Chair Burdick	Closes the public hearing on SB 1011 and opens a work session on SB 198.

SB 198 – WORK SESSION

228	Chair Burdick	Moves to Monday, April 17, 2005. Closes the work session on SB 198 and opens a public hearing on SB 990.
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SB 990 – PUBLIC HEARING

231	Joe O'Leary	Counsel. Describes SB 990 relating to reducing the membership of the Board on Public Safety Standards and Training.
248	Brian DeLashmutt	Oregon Council of Police Associations, Association of Oregon

		Correction Employees, and the Federation of Oregon Parole and Probation Officers. Testifies in support of SB 990. Details the history of this issue over the last few years.
287	DeLashmutt	Stresses that 24 members on the Board is a ludicrously high amount when you have so many people to notify and keep informed. Notes the costs inherent with such a high amount.
314	DeLashmutt	States that the Board is not made up of people who are representative of the people in any shape or form.
334	Mary Botkin	American Federation of State, County, and Municipal Employees. Testifies in support of SB 990. Comments on the lack of cooperation among the proponents and opponents of the bill when attempting to arrive at a sensible number of board members.
378	Botkin	Commends Director Minnis on his job.
402	Chair Burdick	Welcomes students from Grants Pass.
408	John Minnis	Director, Department of Public Safety Standards and Training. Submits a testimony packet and testifies in opposition to SB 990 (EXHIBIT I).
460	Minnis	Admits that the board has, in the past, not engaged the public with the issues it addresses. Talks about how, in his time, they are focused on a more customer service mentality.
494	Chair Burdick	Asks for his opinion on management personal being paid to come to these meetings.
500	Minnis	Discusses a current bill facing the legislative dealing with this issue, and addresses the issue of a per diem stipend for travel to these meetings.
TAPE 109, B		
035	Sen. Beyer	Inquires who chairs the board.
036	Minnis	Responds that the Newburg Chief of Police, Bob Tardiff, is in charge of the board.
041	Sen. Beyer	Wonders about the rules on a 2/3, as opposed to a 3/5, majority required for the passage of a bill.
046	Minnis	States that the majority of issues facing the board have been voted on unanimously.
051	Sen. Beyer	Asks if the Governor is required to appoint individuals who have been recommended and nominated by the board.
058	Minnis	Replies that he is not sure.
064	O'Leary	States that he does not have the information on this issue.
070	Sen. Beyer	Expresses his desire to be informed whether the Governor is forced to appoint members from the advised listing.
077	Minnis	States that the Governor can ask for other suggestions if he doesn't agree with the list recommended to him.
079	Sen. Prozanski	Inquires if there have been any problems with the board arriving at a quorum.
083	Minnis	Responds that there have been times in the past where a quorum has been difficult to achieve; talks about attendance of the meetings through telephone, internet, television, etc.
098	Sen. Prozanski	Asks about the frequency of the meetings.
101	Minnis	Replies that they meet four times a year, or by order of the chair. Talks about the upcoming board meetings (full and chair).
135	Sen. Whitsett	Inquires if it would be possible to get cost estimates on per diem allowances for the meetings as well as the time lost from their other agencies.
145	Minnis	States that they can definitely gather that information.

161	O'Leary	Comments on the ability of the Governor to appoint members to the board.
181	Sen. Beyer	Asks if there is Senate confirmation required; inquires about the constitutionality of these issues.
186	O'Leary	States that he will follow this information for the committee and stresses that Senate confirmation is required.
202	John Powell	Oregon State Sheriffs Association. Testifies in opposition to SB 990.
225	Chair Burdick	Introduces testimony from Derrick Foxworth in opposition to SB 990 (EXHIBIT M). Closes the public hearing on SB 990 and opens a work session on SB 850.

SB 850 – WORK SESSION

228	Joe O'Leary	Counsel. Describes SB 850 relating to establishing an Address Confidentiality Program in the Department of Justice. Introduces the -3 amendment (EXHIBIT J).
254	Chair Burdick	Asks for a list of the work group members.
255	O'Leary	Details the individuals involved with the work group.
263	Sen. Starr	MOTION: Moves to ADOPT SB 850-3 amendments dated 4/14/05.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Walker
267	Chair Burdick	Hearing no objection, declares the motion CARRIED.
268	Sen. Starr	MOTION: Moves SB 850 to the floor with a DO PASS AS AMENDED recommendation.
270	Sen. Beyer	Wonders about the fiscal impact statement.
273	O'Leary	Stresses that he has received no statement from Legislative Fiscal.
302	Kevin Neely	Executive Assistant, Attorney General Hardy Myers. Submits a figure on the fiscal impact of \$33,000.
313	Sen. Prozanski	Inquires if this is general fund appropriation or not.
315	Neely	Responds that he believes it is not.
344	Sen. Beyer	Talks about how all the Department of Justice funding comes from the general fund.
351	Sen. Prozanski	Addresses the issue raised by Sen. Beyer relating to the fiscal impact.
363	Shelby Rihala	Legislative Aide, Sen. Richard Devlin. States that the bill should be forwarded with a subsequent referral to Ways and Means.
390	Starr	Withdraws the motion to send SB 850 DPA because of an impending fiscal.
396	Chair Burdick	Moves SB 850 to Monday, April 17, 2005. Closes the work session on SB 850 and opens a public hearing on SB 264.

SB 264 – PUBLIC HEARING

403	Joe O'Leary	Counsel. Describes SB 264 relating to requiring that grand jury proceedings be on record.
415	John Hummel	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 264.
445	John Henry Hingson	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 264. Stresses that Oregon's grand juries are very unique. Submits a packet on the Oregon Grand Jury (EXHIBIT K).

TAPE 110, B

040	Hingson	Discusses the idea of truth as a virtue.
067	Hingson	Talks about how only the District Attorney can choose which testimony is recorded or not, the defense attorney may not.

111	Hingson	Details the corruption inherent in the current system that allows the District Attorney to manipulate the evidence.
131	Hingson	Addresses a recent case where individuals were indicted without any real evidence through the Grand Jury system.
184	Hummel	Discusses the need for tape recording in these hearings.
195	Mike Dugan	Deschutes County District Attorney. Submits testimony and testifies in opposition to SB 264 (EXHIBIT L).
235	Dugan	Talks about the different methods of charging a person with a crime.
268	Walt Beglau	Marion County District Attorney. Testifies in opposition to SB 264. Addresses the incredible fiscal impact from the increased staffing or the recordation of Grand Jury cases.
320	Beglau	Discusses the Grand Jury process.
369	Chair Burdick	Closes the public hearing on SB 264 and moves SB 208, SB 229, and SB 234 to Tuesday, April 18, 2005. Adjourns the meeting at 3:21 p.m.

EXHIBIT SUMMARY

- A. **SB 1011, written testimony packet, Brad Higbee, 40 pp**
- B. **SB 1011, Statute of Limitations Gap, Brad Higbee, 1 pp**
- C. **SB 1011, History of HB 2080, Brad Higbee, 1 p**
- D. **SB 1011, Study on Cox-2 Inhibitors, Brad Higbee, 3 pp**
- E. **SB 1011, Study on Vioxx, Brad Higbee, 9 pp**
- F. **SB 1011, written testimony, Jim Gardner, 1 p**
- G. **SB 1011, SMS for HB 2080, Jim Gardner, 1 p**
- H. **SB 1011, written testimony, Teresa Teater, 12 pp**
- I. **SB 990, written testimony, John Minnis, 18 pp**
- J. **SB 850, -3 amendment, staff, 4 pp**
- K. **SB 264, written testimony, John Hingson, 17 pp**
- L. **SB 264, written testimony, Michael T. Dugan, 3 pp**
- M. **SB 990, written testimony, Derrick Foxworth, 1 p**