

SENATE COMMITTEE ON JUDICIARY

April 06, 2005
1:00 P.M.

Hearing Room 343
Tapes 96 - 97

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

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

MEASURES/ISSUES HEARD:
 SB 844 – Work Session
 SB 304 – Public Hearing
 SB 220 – Public Hearing
 SB 106 – 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 96, A		
003	Chair Burdick	Calls the meeting to order at 1:13 p.m. and opens a work session on SB 844.
<u>SB 844 – WORK SESSION</u>		
010	Sen. Ryan Deckert	Senate District 14. Submits testimony and testifies in support of SB 844 (EXHIBIT A). Introduces Kathleen Imel, a survivor of a dog attack.
033	Kathleen Imel	Testifies in support of SB 844. Advocates responsibility when dealing with animals.
051	Officer Kent Rohweder	Washington County Animal Services. Testifies in support of SB 844.
060	Sen. Deckert	Introduces and describes the -1 amendment (EXHIBIT B).
102	Chair Burdick	Commends the witnesses on their work. Closes the work session on SB 844 and opens a public hearing on SB 304
<u>SB 304 – PUBLIC HEARING</u>		
111	Joe O'Leary	Counsel. Describes SB 304 relating to reviving certain product liability civil actions for damages resulting from asbestos-related disease claims that are barred solely because the statute of limitations for these claims have expired.
131	Ron Murray	United Association of Plumbers and Steam Fitters, Local 290. Testifies in support of SB 304. Details how the families of affected individuals still suffer from the effects.
167	Ann Samuelson	Plumbing contractor, Astoria, Oregon. Author of SB 304. Submits testimony and testifies in support of SB 304 (EXHIBIT

233	Gale Bast	C). Discusses her personal story relating to asbestos poisoning. United Association of Plumbers and Steam Fitters, Local 290. Testifies in support of SB 304.
251	Frank Veenker	United Association of Plumbers and Steam Fitters, Local 290. Testifies in support of SB 304.
284	Chair Burdick	Closes the public hearing on SB 304 and opens a public hearing on SB 220.

SB 220 – PUBLIC HEARING

294	Joe O’Leary	Counsel. Describes SB 220 relating to authorizing the State Board of Higher Education, Chancellor of the Oregon University System (OUS), and presidents of state institutions of higher education to employ or retain attorneys outside the Department of Justice. Introduces the -3 and -4 amendments (EXHIBITS D & E).
317	George Pernsteiner	George Pernsteiner, Oregon University System. Submits written testimony from Daniel Bernstine (EXHIBIT F).
367	Pernsteiner	Continues testimony in support of SB 304 relating to attorneys employed by the university system.
400	Pernsteiner	Discusses his history with attorneys inside the OUS over the past 40 years.
443	Chair Burdick	Asks why their situation is different from other state agencies.
448	Pernsteiner	Stresses that having affordable attorneys at the employ of the OUS would better allow them to serve their students and the campus.
484	Chair Burdick	Points out that the current drafting of the bill would almost give the OUS it’s own law firm.

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027	Pernsteiner	Indicates that the bill still allows the OUS to use the Attorney General in most situations, but will allow them to employ outside expert attorneys in order to save money.
045	Sen. Walker	Introduces a news article written by Dave Frohnmayer labeled “Public Interest Comes First”(EXHIBIT H).
048	Neil Bryant	Legal Counsel, Oregon State Board of Higher Education. Submits testimony and testifies in support of SB 220 (EXHIBIT I).
099	Bryant	Discusses the Attorney General’s role in the legal arena for the Oregon State Board of Higher Education.
118	Bryant	Talks about the effects resulting from the adoption of the -3 and -4 amendments. Addresses the earlier question relating to the Oregon University System being different from other state agencies. Stresses that 35 other states allow their university systems to employ lawyers in this way.
142	Chair Burdick	Asks what relationship the in-house lawyers would have with the Attorney General.
146	Bryant	Responds with information on the institutional relationship between the two groups of lawyers. Advocates for the adoption of the amendments.
169	Chair Burdick	Inquires if they are opposed to any relationship between the two groups.
171	Bryant	Responds no they are not.
174	Sen. Whitsett	Details a possible scenario involving the public records act and the university system hiring their own lawyers.
192	Bryant	Addresses the question relating to the public records act and the university system.

216	Sen. Whitsett	Asks for clarification on the issue of public records law.
221	Bryant	Replies with information on the issue.
225	Sen. Prozanski	Offers information for clarification on the issue of the university system claiming an exemption under the public records law.
232	Sen. Beyer	Comments on the rules involving campus living requirements.
251	Pernsteiner	Talks about the issue of living requirements, and his willingness to look up the information asked for by Sen. Beyer.
262	Sen. Beyer	Re-addresses the issue of living requirements.
293	Sen. Walker	Asks if other independent state agencies use their own lawyers (Oregon State Lottery, SAIF corporation, and Oregon Health Science University). Goes on to inquire as to what allows an independent state agency to use their own lawyers.
317	Pernsteiner	Stresses he isn't familiar with the other state agencies; addresses the need for this system for the OUS.
330	Sen. Walker	Discusses the story written by Dave Frohnmayer in 1989 relating to why state agencies should not have private law firms in their employ (Exhibit H).
359	Bryant	Declares his familiarization with the article and remarks on the reasoning behind it's arguments.
374	Dave Frohnmayer	President, University of Oregon. Stresses that the earlier argument was due to a state agency trying to sue the state of Oregon, and talks about how the current bill does not allow such a situation to occur.
397	Sen. Walker	Comments on certain discrepancies within the story (Exhibit H).
413	Frohnmayer	Addresses the questions over conflicts with his earlier story.
445	Chair Burdick	Asks what is different from 1991 when the article was written and the university system today.
460	Frohnmayer	Stresses that the legal environment has changed drastically since the early 90's. Talks about court cases over the last 30 years altering the relationship between the university system and the legal system.
TAPE 96, B		
032	Frohnmayer	Advocates consistency in the legal system; points out the possible need for a shared database to be accessed by both the university system and the Attorney General's office.
077	Chair Burdick	Inquires about a scenario of legal advice from the independent counsels that might be to the detriment of another section (another school) of the university system.
081	Frohnmayer	Replies with information on how the current drafting of the bill will address this issue.
120	Bryant	Talks about the criticism from individuals who say that the university system fears change, and how this legislation addresses this concern.
128	Chair Burdick	Asks how the university system would fill these positions.
132	Frohnmayer	Stresses that this is a cost-saving method, and they will not be promiscuous in their appointment of positions.
150	Ed Ray	President, Oregon State University. Submits testimony and testifies in support of SB 220 (EXHIBIT G).
175	Ray	Discusses where most of the funding comes from for the university system, and how they must work with both private sector and state agencies in order to be efficient.
220	Ray	Continues the discussion on legal counsel for the university system.
269	Hardy Meyers	Attorney General. Submits testimony and testifies in opposition

to SB 220 (**EXHIBIT J**). Talks about the problem areas resulting from SB 220.

319 Meyers Discusses an interagency cooperation he has proposed to provide counsel to the university system. Comments on Exhibit A from his testimony relating to his refusal to the university system's own proposals (**Exhibit J**).

370 Meyers Addresses the OUS exemption from legal review by the Attorney General in the current bill. States that the reason the Oregon Health Sciences University has its own legal counsel is due to the fact that it is no longer a state agency.

430 Meyers Discusses the single-state legal policy that Oregon currently use.

462 Meyers Comments on the federal model of legal counsel.

495 Meyers Talks about a US Senate floor session from the 1800s that addressed this issue.

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048 Chair Burdick Inquires about a legal sufficiency contract.

049 Meyers Responds with information on legal sufficiency. Goes on to detail public contract fiascos resulting from the lack of legal control.

099 Meyers Addresses the exemptions issue cited by the university system.

152 Chair Burdick Asks if he is willing to have assistant attorney generals on campus for the major universities, and if his problem is with the exemptions from all legal sufficiency within the bill.

168 Meyers Responds yes, and talks about the exemptions within SB 220.

186 Chair Burdick Inquires about the special training available within the different departments of the attorney generals office.

190 Meyers Replies with information on the specific training and experience in the different sections of his office.

204 Sen. Prozanski Comments on the current funding problems with the university system and asks if the special assistant attorney general (SAAG) within the universities have been less than satisfactory.

224 Meyers Responds with information on the performance of the SAAG.

265 Sen. Prozanski Asks who would make the decision on whether a SAAG would be appointed.

271 Meyers Replies that there are multiple avenues of authority relating to establishing a SAAG; discusses the different methods.

292 Sen. Prozanski Discusses the need for legal decisions to be made on a timely and efficient manner for the universities. Wonders who the SAAG would finally report to; the university or the Attorney General.

332 Meyers Addresses the question by talking about his inter-agency proposal, and how it would fix these problems.

375 Sen. Prozanski Reiterates his earlier concern about who's authority the SAAG would fall under.

378 Meyers Responds that the hiring would be under the Attorney General but the firing would be under the university.

405 Chair Burdick Introduces transcripts of the Senate Education Committee on March 17, 2003 and written testimony from Harvey Matthews of the Associated Oregon Industries (**EXHIBITS L & M**). Closes the public hearing on SB 220 and opens a work session on SB 106.

SB 106 – WORK SESSION

411 Joe O'Leary Counsel. Describes SB 106 relating to requiring firefighters and emergency medical technicians to report abuse of elderly persons. Introduces the -1 amendment (**EXHIBIT K**).

466	Sen. Starr	MOTION: Moves to ADOPT SB 106-1 amendments dated 3/28/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Whitsett
470	Chair Burdick	Hearing no objection, declares the motion CARRIED.
472	Sen. Starr	MOTION: Moves SB 106 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Whitsett
475	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor.
480	Chair Burdick	Closes the work session on SB 220 and moves SB 401, SB 246, SB 641, and SB 273 onto Thursday, April 7, 2005.
497	Chair Burdick	Adjourns the meeting at 3:00 p.m.

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EXHIBIT SUMMARY

- A. SB 844, written testimony, Sen. Ryan Deckert, 3 pp
- B. SB 844, -1 amendment, staff, 16 pp
- C. SB 304, written testimony, Ann Samuelson, 9 pp
- D. SB 220, -3 amendment, staff, 1 p
- E. SB 220, -4 amendment, staff, 1 p
- F. SB 220, written testimony, Daniel Bernstine, 2 pp
- G. SB 220, written testimony, Ed Ray, 1 p
- H. SB 220, "Public Interest Comes First", Sen. Walker, 3 pp
- I. SB 220, written testimony, Neil Bryant, 2 pp
- J. SB 220, written testimony, Hardy Myers, 28 pp
- K. SB 106, -1 amendment, staff, 5 pp
- L. SB 220, Transcript of Senate Education Committee, March 17, 2003, Harvey Mathews, 2 pp
- M. SB 220, written testimony, Harvey Mathews, 3 pp