

SENATE COMMITTEE ON JUDICIARY

May 17, 2005
1:00 P.M.

Hearing Room 343
Tapes 139 - 140

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

MEMBER EXCUSED: Sen. Doug Whitsett

STAFF PRESENT: Sam Sears, Counsel
Heidi Moawad, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3459A – Public Hearing and Work Session
HB 2545A – Public Hearing
HB 2547 – Public Hearing
HB 2548 – Public Hearing
HB 3157A – Public Hearing
HB 3119 – Public Hearing
HB 2225 – 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 139, A		
002	Chair Burdick	Calls the meeting to order at 1:15 p.m. and opens a public hearing on HB 3459A.
<u>HB 3459A – PUBLIC HEARING</u>		
005	Sam Sears	Counsel. Describes HB 3459A relating to expanding the definition of motor vehicle in statutes regulating motor vehicle franchises to include self-propelled devices used in construction, other than motor homes. Introduces and describes the A2 amendment (EXHIBIT A).
021	Tim Martinez	Halton Corporation. Testifies in support of HB 3459A with the -2 amendment.
041	Jeff Simonson	Oregon Machinery Dealers Association. Testifies in support of HB 3459A with the -2 amendment.
059	Chair Burdick	Closes the public hearing and opens a work session on HB 3459A.
<u>HB 3459A – WORK SESSION</u>		
063	Sen. Starr	MOTION: Moves to ADOPT HB 3459A-2 amendments dated 5/17/05.

		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Whitsett
		Hearing no objection, declares the motion CARRIED.
068	Chair Burdick	MOTION: Moves HB 3459A2 to the floor with a DO PASS
068	Sen. Starr	AS AMENDED recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Whitsett
		Hearing no objection, declares the motion CARRIED.
070	Chair Burdick	SEN. BURDICK will lead discussion on the floor.
072	Chair Burdick	Closes the work session on HB 3459A2 and opens a public hearing on HB 2545A.
<u>HB 2545A – PUBLIC HEARING</u>		
078	Rep. Bob Ackerman	House District 13. Submits testimony and testifies in support of HB 2545A (EXHIBIT B).
100	Rep. Ackerman	Talks about the separation of public records into exempt and non-exempt status from the public records law.
131	Sen. Walker	Asks about the different amendments (the -1 and -3 amendments).
134	Rep. Ackerman	Explains the situation with the different amendments.
148	Chair Burdick	Inquires about page 2 of the A-engrossed bill dealing with agencies complying with the public records requests.
158	Rep. Ackerman	Discusses the charges for the agencies resulting from a request made for accessible public records.
171	Chair Burdick	Closes the public hearing on HB 2545A and opens a public hearing on HB 2547.
<u>HB 2547 – PUBLIC HEARING</u>		
175	Sam Sears	Counsel. Describes HB 2547 relating to increasing the value of estates for which small estate affidavits may be filed.
188	Rep. Bob Ackerman	House District 13. Submits testimony and testifies in support of HB 2547 (EXHIBIT C).
218	Chair Burdick	Closes the public hearing on HB 2547 and opens a public hearing on HB 2548.
<u>HB 2548 – PUBLIC HEARING</u>		
222	Sam Sears	Counsel. Describes HB 2548 relating to mandating arbitration in circuit court proceedings in which \$50,000 or less is involved.
230	Rep. Bob Ackerman	House District 13. Submits testimony and testifies in support of HB 2548 (EXHIBIT D).
275	Rep. Ackerman	Addresses the statistics that 80% of the time, the individuals involved with the litigation are satisfied with the end-result.
289	Chair Burdick	Asks how long the \$25,000 limit has been set.
292	Rep. Ackerman	Replies at least 10 years, but is not sure.
297	Sen. Ringo	Inquires how many counties do not do this, and why.
299	Rep. Ackerman	States that Lane county is a major one, and talks about their reasoning behind this decision.
311	Sen. Ringo	Declares that mandatory arbitration is useful and cost-effective.
320	Chair Burdick	Closes the public hearing on HB 2548 and opens a public hearing on HB 3157A.
<u>HB 3157A – PUBLIC HEARING</u>		
324	Sam Sears	Counsel. Describes HB 3157A relating to providing that the duty of a county court or board of county commissioners to inspect local correctional facilities is discretionary for facilities not operated by the county.
331	Rep. Bob Ackerman	House District 13. Testifies in support of HB 3157A.
365	Sen. Prozanski	Talks about the different correctional facilities where the county

390	Anthony Bieda	commissioners have discretion in inspectional responsibilities.
429	Paul Snyder	Lane County. Testifies in support of HB 3157A.
434	Chair Burdick	Association of Oregon Counties. Testifies in support of HB 3157A.
		Closes the public hearing on HB 3157A and opens a public hearing on HB 3119.
<u>HB 3119 – PUBLIC HEARING</u>		
441	Rep. Sal Esquivel	House District 6. Testifies in support of HB 3119.
<u>TAPE 140, A</u>		
034	Rep. Esquivel	States that this bill is permissive, and gives the option to use computer-based data files instead of microfilm.
071	Sen. Prozanski	Asks if the security or safety of these documents (computer hackers, not being changed in the future, etc.) has been addressed.
083	Rep. Esquivel	Declares that this problem is encountered with every form of archiving/documentation storage.
113	Sen. Prozanski	Inquires what types of backups or security methods are in place to combat hackers, editing, alterations, etc.
129	Rep. Esquivel	Discusses some of the possible encryption and firewalls that would need to be implemented to protect these types of documents.
162	Diana Bradrick	Manager, Cartography and Records, Washington County. Testifies in opposition to HB 3119.
206	Charlie Killian	Records & Information Technician, Clackamas County Records Management. Submits a testimony packet and testifies in opposition to HB 3119 (EXHIBIT F).
240	Jan Coleman	Yamhill County, Oregon Association of County Clerks. Submits testimony and testifies in opposition to HB 3119 (EXHIBIT E). Discusses her history as a county clerk, and her reluctance to support the bill.
285	Coleman	States that microfilm is a permanent record because you can view and analyze the contents without the use of an ancillary device (viewing machine of some sort).
327	Sen. Prozanski	Inquires about the vote count among the clerks who supported and didn't support HB 3119. Asks if this process is being used anywhere else in the country, and if the state set a date to plan towards moving to other technologies to store our data.
335	Coleman	Replies that there were about a dozen who would like this bill to pass. States
372	Roy Turnbaugh	State Archivist. Submits testimony and testifies in opposition to HB 3119 (EXHIBIT G). Stresses that paper and microfilm are the most reliable and stable mediums for storage.
410	Turnbaugh	Addresses several different mediums used in the past for media storage.
<u>TAPE 139, B</u>		
005	Chair Burdick	Closes the public hearing on HB 3119 and opens a public hearing on HB 2225.
<u>HB 2225 – PUBLIC HEARING</u>		
007	Heidi Moawad	Counsel. Describes HB 2225 relating to establishing a standard of review for appeals from judgment in violation proceedings.
021	Jonathan Fussner	Department of Justice. Submits testimony and testifies in support of HB 2225 (EXHIBIT H).
057	Chair Burdick	Inquires how the system resulted in a more comprehensive review being implemented for a violation as opposed to cases with more serious offenses.

060	Fussner	Replies that he isn't entirely sure, and discusses the legislative action on this issue in the past.
076	Sen. Prozanski	Raises his concern of the circuit court and court of appeals decisions on these <i>de novo</i> court cases.
090	Fussner	Stresses that this bill is not intended to affect how courts go from the circuit court/municipal court to the appellate court.
107	Chair Burdick	Closes the public hearing on HB 2225 and adjourns the meeting at 2:18 p.m.

EXHIBIT SUMMARY

- A. **HB 3459A, -A2 amendment, staff, 1 p**
- B. **HB 2545, written testimony, Rep. Ackerman, 2 pp**
- C. **HB 2547, written testimony, Rep. Ackerman, 3 pp**
- D. **HB 2548, written testimony, Rep. Ackerman, 3 pp**
- E. **HB 3119, written testimony, Jan Coleman, 1 p**
- F. **HB 3119, testimony packet, Charlie Killian, 9 pp**
- G. **HB 3119, written testimony, Ray Turnbaugh, 1 p**
- H. **HB 2225, written testimony, Jonathan Fussner, 2 pp**