

SENATE COMMITTEE ON RULES

February 17, 2005
6:30 P.M.

Hearing Room: ASHLAND ARMORY
ASHLAND, OREGON

Tapes 12 - 15

MEMBERS PRESENT: Sen. Kate Brown, Chair
Sen. Ted Ferrioli, Vice-Chair
Sen. Jason Atkinson
Sen. Charlie Ringo
Sen. Frank Shields

VISITING MEMBERS: Sen. Alan Bates
Rep. Betty Komp
Rep. Arnie Roblan

STAFF PRESENT: Tiffany Harris, Committee Administrator
Patricia Nielsen, Committee Assistant

MEASURES/ISSUES HEARD:
Executive Appointment – Public Hearing and Work Session
Environmental Quality Commission
Judy Uherbelau
SB 712 – Public Hearing
SB 587 – Public Hearing
Approval of drafting request – 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 12, A		
005	Chair Brown	Calls the meeting to order at 6:40 p.m. Makes opening remarks. Asks members to introduce themselves.
050	Sen. Ferrioli	District 30. Introduces himself.
060	Rep. Betty Komp	District 22. Introduces herself.
070	Rep. Arnie Roblan	District 9. Introduces himself.
080	Sen. Alan Bates	District 3. Introduces himself.
085	Sen. Atkinson	District 2. Introduces himself.
095	Sen. Shields	District 24. Introduces himself.
105	Chair Brown	Opens public hearing and work session on executive appointment.

EXECUTIVE APPOINTMENT – PUBLIC HEARING AND WORK SESSION

ENVIRONMENTAL QUALITY COMMISSION – APPOINTMENT OF JUDY UHERBELAU

(EXHIBIT A)

115	Judy Uherbelau	Introduces herself. Discusses her background and qualifications for appointment to the Environmental Quality Commission (EQC).
140	Chair Brown	Asks about her ability to attend commission meetings and serve.
145	Uherbelau	Explains she has flexibility in her employment which allows her to perform public service.
160	Sen. Ferrioli	Asks about burden of environmental regulations on the

170	Uherbelau	economies of small communities. Responds all of life is a balancing act and it is important to consider all the impacts of enforcing regulations. Explains her philosophy that humans are stewards of the earth and its resources.
200	Sen. Ferrioli	Comments on the Governor's confrontational approach to environmental enforcement.
210	Uherbelau	Agrees that environmental enforcement is confrontational. Believes all parties should work together for solutions.
220	Sen. Ferrioli	Asks whether her law practice includes environmental law.
225	Uherbelau	Responds it has not.
230	Sen. Ferrioli	Distinguishes between industry in non-renewable resources (steel) and closure of sawmills.
240	Uherbelau	Answers and describes her research on forestry issues. Discusses cutting of old-growth timber.
250	Sen. Ringo	Asks about her view on sustainability of natural resources.
280	Uherbelau	Discusses renewable resources and adds that the environment should also be sustained.
290	Sen. Bates	Asks for her response to a comment about how she represented an area with diverse interests.
300	Uherbelau	Explains having a diverse district allowed her to expand her thinking about many issues. Adds that she listened to people and considered what they said.
340	Sen. Atkinson	Explains he will support the nomination having known Ms. Uherbelau and watched her example. Comments she has balance in her thinking.
360	Sen. Shields	Comments on need for sustainability. Asks about the commission listening to the recommendations of the Department of Environmental Quality with regard to toxic mixing zones on the Willamette River.
TAPE 13, A		
020	Uherbelau	Comments that jobs and the economy are important, but industries must also be good citizens.
025	Sen. Ringo	MOTION: Moves the APPOINTMENT of Judy Uherbelau to the Environmental Quality Commission to the floor with the recommendation that the appointment BE CONFIRMED.
030		VOTE: 4-1-0 AYE: 4 - Atkinson, Ringo, Shields, Brown NAY: 1 - Ferrioli The motion CARRIES. SEN. ATKINSON will lead discussion on the floor.
035	Chair Brown	Closes work session on executive appointment. Opens public hearing on SB 712.
<u>SB 712 – PUBLIC HEARING</u>		
045	Tiffany Harris	Committee Administrator. Presents overview of SB 712.
050	Rep. Arnie Roblan	District 9. Testifies in support of SB 712. Discusses increased penalties for domestic violence. Describes how pregnancy escalates responsibility and curtails freedom, and how some men react violently. Discusses prevalence of physical abuse during pregnancy.
090	Rep. Betty Komp	District 22. Testifies in support of SB 712. Discusses consequences of domestic violence on families, especially pregnant women. Describes her experiences as a middle school

		principal.
130	Sen. Ferrioli	Responds to Rep. Roblan's testimony. Agrees that legislation is overdue. Asks whether he has reviewed the California statute.
140	Rep. Roblan	Responds he has reviewed other statutes but approves this approach.
155	Ron Johnson	Introduces himself.
157	JoeAnn Johnson	Introduces herself.
160	Ron Johnson	Testifies in support of SB 712. Explains his daughter was murdered. Discusses statutes in other states. Urges the passage of the measure if it would save one woman and one child.
175	Arnie Green	Community Works Executive Director; Oregon Alliance to End Violence Against Women. Testifies in support of SB 712. Discusses activities of the Alliance to increase safety for women. Explains need for increased public education. Approves strengthening the criminal justice system. Describes funding sources for community services.
255	Mara Owens	Oregon State University student. Testifies in support of SB 712. Describes her experiences as a victim.
310	Paul Robinson	Community Relations Director, Planned Parenthood of Southwest Oregon. Testifies in support of SB 712. Discusses domestic violence against pregnant women.
360	Sen. Ferrioli	Refers to the Laci Peterson incident in California. Asks how that law differs.
365	Robinson	Responds trying to establish personhood is a distraction from the issue of safety of pregnant women. Recommends passing this law as written.
390	Martha Pellegrino	Law student, Eugene. Presents written testimony of Tom Lininger in support of SB 712 (EXHIBIT B). Discusses need for updating penal statutes.
TAPE 12, B		
005	Sen. Atkinson	Asks about degrees of vulnerability at different stages of pregnancy.
010	Pellegrino	Defers.
015	Sen. Atkinson	Agrees that the statutory update is important. Refers to Section 2 language and asks if there would be an increased penalty for these crimes.
030	Robinson	Responds the focus should not be on whether there is a viable fetus but on the issue of violence against pregnant women.
060	Sen. Atkinson	Explains he seeks a balance between California's law making the crime a double homicide and making Oregon's law more strict.
070	Chair Brown	Clarifies distinction between SB 440 and SB 712. Explains SB 712 only elevates the penalty for murder if the perpetrator knows the victim is pregnant. Discusses level of knowledge required by each bill.
090	Sen. Atkinson	Asks how the measure addresses the situation where an unborn child does not survive an assault.
100	Sen. Ferrioli	Suggests the effect of SB 712 would be only one homicide, but under SB 440 there would be two homicides. Discusses exemptions in both bills. Asks for the bills to be heard side by side.
120	Dr. Nancy Glass	Co-Director, Center for Health Disparities Research; Assistant Professor, Oregon Health and Sciences University (OHSU) School of Nursing. Testifies in support of SB 712. Discusses her reasons in the context of violence against women. Provides

190	Chair Brown	statistics on homicide and domestic violence.
195	Glass	Asks about her background.
205	Joshua Marquis	Advises she is a PhD and a nurse. Clatsop County District Attorney; Board Member, National District Attorneys Association; Oregon District Attorneys Association. Testifies in support of SB 712. Argues that protecting pregnant women will also protect unborn children.
255	Chair Brown	Asks about cases he has handled.
260	Marquis	Explains he has handled many cases of assault on pregnant women but no homicides.
270	Chair Brown	Asks about specific circumstances.
275	Marquis	Explains penalty for miscarriage under current law and under SB 712.
295	Sen. Ferrioli	Asks about the legal definition of pregnant.
300	Marquis	Responds there is no legal definition. Suggests under SB 712 it would be any time during a pregnancy, and the significance of the measure is that the perpetrator must know the victim is pregnant.
325	Sen. Ferrioli	Asks about prosecution under specific facts.
330	Marquis	Discusses different options depending on the progress of the pregnancy.
340	Sen. Ferrioli	Refers to Laci Peterson case with two homicides and Oregon law.
345	Marquis	Explains the California law provides for a separate crime of homicide against the fetus.
360	Sen. Ferrioli	Asks about statutes of limitations for assault and for murder.
365	Marquis	Discusses.
375	Sen. Ferrioli	Clarifies the statute of limitations for assault is three years and for homicide there is no limit. Suggests it is only his opinion that the double homicide would not pass in Oregon.
385	Marquis	Focuses on the protection for the woman.
TAPE 13, B		
005	Chair Brown	Closes public hearing on SB 712. Opens public hearing on SB 587.
<u>SB 587 – PUBLIC HEARING</u>		
010	Tiffany Harris	Committee Administrator. Presents overview of SB 587.
020	Vanya Sloan	League of Women Voters of Ashland Oregon. Testifies in support of SB 587. Submits written testimony (EXHIBIT C).
050	Myra Erwin	League of Women Voters of Ashland Oregon. Testifies in support of SB 587.
060	Chair Brown	Closes public hearing on SB 587. Reopens public hearing on SB 712.
<u>SB 712 – PUBLIC HEARING</u>		
065	Bryan Platt	Eagle Point. Testifies in opposition to SB 712. Submits written testimony and photos (EXHIBIT D). Argues SB 712 is inadequate to protect victims and unborn children.
100	Bob Koser	Rancher, Eagle Point. Testifies in opposition to SB 712. Submits written testimony (EXHIBIT E). Clarifies he supports protection of pregnant women but argues it does not go far enough. Suggests that SB 440 or HB 2020 be considered.
150	Chair Brown	Asks if either witness supports increased penalties when the perpetrator knew or should have known a victim was pregnant.
160	Koser	Disagrees with the terminology about knowledge.
165	Platt	Responds he does not disagree.

170	Chair Brown	Asks whether either would oppose creating multi-disciplinary teams to study domestic violence fatalities.
175	Koser	Responds he would not oppose the idea as long as the unborn baby's rights are protected.
178	Platt	Agrees and adds that we would not be at this hearing if only Kerry Repp had been murdered. Argues there was another victim, and SB 712 does not address that issue.
180	Chair Brown	Asks about their understanding of the ultimate penalty under SB 440.
182	Platt	Responds there are two penalties.
185	Sen. Bates	Comments on the language of SB 440 and SB 712.
190	Chair Brown	Clarifies SB 440 has no intent element stated in the bill.
		Explains net effect in certain circumstances.
205	Sen. Ferrioli	Discusses criminal intent. Asks for SB 440 to be heard side by side.
210	Chair Brown	Refers to language.
215	Sen. Ferrioli	Discusses prosecution of homicide.
240	Sue Ann Arnold	Eagle Point. Testifies in opposition to SB 712. Discusses the humanness of an unborn baby. Suggests there should be two prosecutions.
295	Lisa Greif	Medford Public Defender's Office; Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to SB 712. Opposes any change which increases the death penalty, including SB 440 and HB 2020.
315	Sen. Ferrioli	Asks if there would be a defense under SB 712, based on lack of knowledge of the pregnancy.
320	Greif	Responds that knowledge is a concept required by a wide range of criminal offenses.
325	Arnold	Adds that the perpetrator should not be required to have knowledge.
340	Sen. Ferrioli	Discusses knowledge requirements under SB 440 and SB 712.
350	Greif	Explains her first defense would be that an accused did not commit the homicide, and second that the accused did not know of the pregnancy.
360	Sen. Atkinson	Thanks Ms. Arnold for appearing.
380	Evangeline Simmons	Sexual Assault Victim Services, Community Works. Testifies in support of SB 712. Discusses importance of deterrence in domestic violence and sexual assault situations.
400	Sterling Ford	Testifies as neutral on SB 712. Submits written testimony (EXHIBIT F) . Argues that unborn children are humans.
TAPE 14, A		
005	Sterling Ford	Continues and urges that bills be passed to address the emergency. Considers killing a mother and her unborn child as a double murder. Expresses support for the Johnsons.
055	Sen. Atkinson	Agrees it should be considered a double murder.
070	Myrna Shaneyfelt	Grants Pass. Testifies in opposition to SB 712. Submits written testimony (EXHIBIT G) . Argues the measure does not go far enough. Urges support of SB 440 which would recognize a double murder.
130	Sen. Ferrioli	Responds and discusses shootings where a victim was behind a wall.
140	Shaneyfelt	Refers to the federal Unborn Victims of Violence Act. Suggests the members review and consider using that framework.
160	Aaron Ausland	Testifies in opposition to SB 712. Argues women are no more

		vulnerable than any other class, and pregnant women represent two lives.
220	Jane Gorevin	Testifies in opposition to SB 712. Supports increased penalties but argues the measure does not go far enough. Urges resolution of language issues so comprehensive protection can be provided. Acknowledges issues and advocates more dialog.
310	Sandra Abercrombie	Medford. Testifies in opposition to SB 712. Submits written testimony (EXHIBIT H) .
330	Amy Herbelin	Testifies in support of SB 712. Describes her friendship with Kerry Repp.
340	Steve Raycraft	Testifies in opposition to SB 712. Submits written testimony (EXHIBIT I) . Argues the bill does not go far enough and advocates for SB 440.
400	Eric Schaafsma	Testifies as neutral on SB 712. Compares language of SB 712 and SB 440. Asks for support for SB 440 and HB 2020.

The following prepared testimony is submitted for the record without public testimony for SB 712:

	Rep. Peter Buckley	District 5. Submits written testimony (EXHIBIT J)
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TAPE 15, A

020	Chair Brown	Clarifies there is no definition of pregnancy in Oregon's criminal code. Closes public hearing on SB 712. Opens work session for consideration of legislative concept for drafting by Legislative Counsel.
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APPROVAL OF DRAFTING REQUEST – WORK SESSION

030	Chair Brown	Discusses drafting request regarding domestic violence fatality review (EXHIBIT K) .
035	Chair Brown	MOTION: Moves the drafting request BE APPROVED FOR DRAFTING by Legislative Counsel.
040		VOTE: 4-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Ringo
	Chair Brown	The motion CARRIES.
060	Sen. Ferrioli	Comments all the legislators want to increase penalties and protections, and there is no lack of support for the ideas.
080	Chair Brown	Closes work session. Adjourns the meeting at 9:07 p.m.

EXHIBIT SUMMARY

- A. Environmental Quality Commission, staff and Governor's office, 9 pp**
- B. SB 712, written testimony of Tom Lininger, Martha Pellegrino, 2 pp**
- C. SB 587, written testimony, Vanya Sloan, 1 p**
- D. SB 712, written testimony and photos, Bryan Platt, 3 pp**
- E. SB 712, written testimony, Bob Koser, 2 pp**
- F. SB 712, written testimony, Sterling Ford, 1 p**
- G. SB 712, written testimony, Myrna Shaneyfelt, 2 pp**
- H. SB 712, written testimony, Sandra Abercrombie, 1 p**
- I. SB 712, written testimony, Steve Raycraft, 1 p**
- J. SB 712, written testimony, Rep. Peter Buckley, 1 p**
- K. Approval of drafting request, domestic violence fatality review, staff, 4 pp**