

SENATE COMMITTEE ON RULES

June 30, 2005
1:00 P.M.

Hearing Room B
Tapes 141 - 142

Corrected 10/28/05

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

STAFF PRESENT: **Tiffany Harris, Committee Administrator**
 Linda K. Gatto, Committee Assistant

MEASURE/ISSUES HEARD:

HB 2136A – Public Hearing and Work Session
HB 2681A – Public Hearing and Work Session
HB 2862A – Public Hearing and Work Session
HB 2878 – Public Hearing and Work Session
HCR 9A – Public Hearing and Work Session
HJM 13A – Public Hearing and Work Session
HJM 15 – Public Hearing and Work Session
HJM 16 – Public Hearing and Work Session
HJM 18A – Public Hearing and Work Session
HJM 25A – Public Hearing and Work Session
SJM 8 – Public Hearing and Work Session
SB 1000 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 141, A		
004	Chair Brown	Calls the meeting to order at 1:12 p.m. as a subcommittee and opens a public hearing on HB 2136A, HB 2681A, HB 2862A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A, and SJM 8.
<u>HB 2136A, HB 2681A, HB 2862A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A and SJM 8 – PUBLIC HEARING</u>		
018	Rep. Donna Nelson	House District 24. States these bills advocate for veterans, our military and their families. States that these are critical issues to restore the credibility of veterans.
078	Colonel Mike Caldwell	States that HB 2862A codifies in to law what is a fairly common practice clarifying the policy of the state.
087	David McDonald	Director of Enrollment Services Oregon University System. Submits an issue brief on the Voyager Tuition Assistance Program and states support for HB 2862A (EXHIBIT A).
106	Chair Brown	Closes the public hearing on HB 2862A. Notes there is now a quorum and states for the record that Colonel Caldwell is here on HJM 13A, HJM 15, HJM 16, SJM 8, and HJM 25.
115	Colonel Mike Caldwell	Deputy Director, Oregon Military Department. States that HB 2136A updates the Oregon Code of Military Justice. Explains the

		three major provisions.
154	Mike Sullivan	Lobbyist for the Association of Western Pulp and Paper Workers. Testifies in support of HJM 18A. States that this bill asks that Veterans Affairs be funded directly under mandated funds.
181	Kevin O'Reilly	Oregon Paralyzed Veterans of America. Reads a prepared statement about the cuts to medical equipment upgrades and comprehensive care in Veteran's Affairs.
246	Sen. Ringo	Asks if there is a distinction between veterans' health care needs that arise because of combat operations.
251	O'Reilly	Responds that the distinction is made between service connected and non-service connected. Explains there are eight categories of eligibility.
258	Sen. Ringo	Asks are the service connected given a higher priority.
259	O'Reilly	Answers yes.
261	Sullivan	Adds that currently there is no funding for category 8 priorities.
257	Fred Schafer	Oregon State Commander, National Association of Atomic Veterans. States HCR 9A requests July 16 as a special day in Oregon. Explains they were test sites participates and are considered not service connected.
299	Forest Bahler	Past Department Commander, Disabled American Veterans. States he is an atomic veteran. Describes his experience with atomic energy testing at sea. Explains that the first test was in New Mexico in 1945 and from there to Japan and the atomic bomb testing continued.
345	Bahler	States animals were used. Discusses the experience of the shock wave, the radiation exposure from atomic bombs from 1945 to 1956 which has taken the lives of many veterans from cancer, leukemia and lymphoma.
366	Bahler	Describes medical issues experienced by his three daughters. States that passing this bill is one more step toward justice for atomic veterans.
414	William Milagan	States that he also served as an atomic veteran. States that he has a history of cancer related illnesses. Supports HCR 9A.
TAPE 142, A		
019	Sen. Ferrioli	Comments on the efforts expended during the cold war and the risks that were taken without explanation. States appreciation for bringing this issue to public consciousness.
056	Sen. Ferrioli	Adds they were not allowed to share their experiences with physicians or family.
058	Bahler	Adds there are veterans that have charges against them for talking.
084	Sen. Ringo	States that his father witnessed the first atomic blast in New Mexico and was told it was a fuel depot that exploded. Comments on veterans' exposure to risks where the effects are not disclosed. States appreciation for the testimony.
110	Jim Jones	Relays his experience in 1958 of the being in the submarine when the blast went off; in Vietnam with Agent Orange where it would run off them like water. States they are not looking for money; they are looking for a day of recognition for the veterans who were used Guinea pigs in the bomb tests.
131	Sen. Ferrioli	Observes that when these men were making these sacrifices members of the committee were children.
147	Jones	Relays what happened to when a shock wave hit the submarine. Discusses the secrecy requirements and deaths as a result of

200	Member of the audience	radiation exposure. Discusses the “spooks” that came in after the testing.
236	John Gabrielson	Relays his personal experience on patrol and having to arrest people who spoke about what they witnessed.
256	Chair Brown	Closes the public hearing on HB 2136A, HB 2681A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A, and SJM 8 and opens a work session on HB 2136A.
<u>HB 2136A – WORK SESSION</u>		
260	Chair Brown	MOTION: Moves HB 2136A to the floor with a DO PASS recommendation.
262		VOTE: 4-0-1
	Chair Brown	EXCUSED: 1 – Shields *(see tape 141 B #266)
		Hearing no objection, declares the motion CARRIED.
		SEN. FERRIOLI will lead discussion on the floor.
	Chair Brown	Closes the work session on HB 2136A and opens the work session on HB 2681A.
<u>HB 2681A – WORK SESSION</u>		
264	Chair Brown	MOTION: Moves HB 2681A to the floor with a DO PASS recommendation.
265		VOTE: 4-0-1
	Chair Brown	EXCUSED: 1 – Shields *(see tape 141 B #266)
		Hearing no objection, declares the motion CARRIED.
		SEN. BROWN will lead discussion on the floor.
267	Chair Brown	Closes the work session on HB 2681A and opens the work session HB 2862A.
<u>HB 2862A –WORK SESSION</u>		
266	Chair Brown	MOTION: Moves HB 2862A to the floor with a DO PASS recommendation.
267		VOTE: 4-0-1
	Chair Brown	EXCUSED: 1 – Shields *(see tape 141 B #266)
		Hearing no objection, declares the motion CARRIED.
		SEN. RINGO will lead discussion on the floor.
269	Chair Brown	Closes the work session on HB 2862A and opens the work session on HB 2878.
<u>HB 2878 – WORK SESSION</u>		
269	Chair Brown	MOTION: Moves HB 2878 to the floor with a DO PASS recommendation.
269		VOTE: 4-0-1
	Chair Brown	EXCUSED: 1 – Shields *(see tape 141 B #266)
		Hearing no objection, declares the motion CARRIED.
		SEN. ATKINSON will lead discussion on the floor.
271	Chair Brown	Closes the work session on HB 2878. Opens the work session on HCR 9A.
<u>HCR 9A – WORK SESSION</u>		
283	Chair Brown	MOTION: Moves HCR 9A be sent to the floor with a BE ADOPTED recommendation.
283		VOTE: 4-0-1
	Chair Brown	EXCUSED: 1 – Shields *(see tape 141 B #266)
		Hearing no objection, declares the motion CARRIED.
		SEN. FERRIOLI will lead discussion on the floor.
283	Chair Brown	Closes the work session on HCR 9A and opens the work session on HJM 13.
<u>HJM 13A – WORK SESSION</u>		

289 Chair Brown **MOTION: Moves HJM 13A be sent to the floor with a BE ADOPTED recommendation.**

291 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. BROWN will lead discussion on the floor.

291 Chair Brown Closes the work session on HJM 13A and opens the work session on HJM 15.

HJM 15 – WORK SESSION

292 Chair Brown **MOTION: Moves HJM 15 be sent to the floor with a BE ADOPTED recommendation.**

293 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. RINGO will lead discussion on the floor.

297 Chair Brown Closes the work session on HJM 15 and opens the work session on HJM 16.

HJM 16 – WORK SESSION

299 Chair Brown **MOTION: Moves HJM 16 be sent to the floor with a BE ADOPTED recommendation.**

300 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. ATKINSON will lead discussion on the floor.

301 Chair Brown Closes the work session on HJM 16 and opens the work session on HJM 18A.

HJM 18A – WORK SESSION

302 Sen. Brown **MOTION: Moves HJM 18A be sent to the floor with a BE ADOPTED recommendation.**

303 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. SHIELDS will lead discussion on the floor.

304 Chair Brown Closes the work session on HJM 18A and opens the work session on HJM 25A.

HJM 25A – WORK SESSION

306 Chair Brown **MOTION: Moves HJM 25A be sent to the floor with a BE ADOPTED recommendation.**

307 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. FERRIOLI will lead discussion on the floor.

310 Chair Brown Closes the work session on HJM 25A and opens the work session on SJM 8.

SJM 8 – WORK SESSION

310 Chair Brown **MOTION: Moves SJM 8 be sent to the floor with a BE ADOPTED recommendation.**

311 **VOTE: 4-0-1**
EXCUSED: 1 – Shields *(see tape 141 B #266)
Chair Brown **Hearing no objection, declares the motion CARRIED.**
SEN. BROWN will lead discussion on the floor.

313 Chair Brown Closes the work session on SJM 8. Recesses the committee until

		2:10 p.m.
330	Chair Brown	Reconvenes the meeting. Clarifies the rules for minority reports when the Senate is under one hour notice. Opens the work session on SB 1000.
<u>SB 1000 – WORK SESSION</u>		
361	Tiffany Harris	States there are -3, -6 and -7 amendments. Clarifies that the -6 tracks the -3 amendments and the -7 amendments track the original bill.
399	Doug McKean	Legislative Counsel. Reviews the -6 amendments (EXHIBIT B). Notes that the language “bona fide church or sectarian religious institution” is identical to language already in law.
452	Chair Brown	Asks how “bona fide church or sectarian religious institution” is defined in law.
457	McKean	Answers they are not defined terms and there are no court cases that describe what those terms mean. Current law in 659A.006 gives examples of a sectarian religious institution.
TAPE 141, A		
015	Chair Brown	Clarifies for the record this is current statutory law.
015	McKean	Continues to review the provisions of the -6 amendments.
TAPE 141, B		
036	Sen. Ben Westlund	Testifies that the -7 amendments clarify that marriage and civil unions are not the same. The -7 amendments delete the term “same” and insert “substantially equivalent to”, the -6 amendments address specific issues/items/entities that could be impacted.
071	Sen. Westlund	Comments on the committee process and the work that was done on this bill.
082	Chair Brown	Asks if the -7 amendments clarify that SB 1000 is not the same as marriage.
084	Sen. Westlund	Responds affirmatively.
086	Chair Brown	Asks if it is his understanding that civil unions are not recognized by the federal law.
087	Sen. Westlund	Responds civil unions are prohibited from being recognized by federal law.
088	Chair Brown	Asks if they are transferable to other states.
089	Sen. Westlund	Responds unless a state recognizes civil unions, they are not transferable.
091	Chair Brown	Asks if the -7 amendments allow same sex couples to marry.
092	Sen. Westlund	Answers that federal law and the state of Oregon prohibits same sex couples to marry and this bill does not change that.
094	Chair Brown	Asks who participated in drafting the -6 amendments.
095	Sen. Westlund	Answers a group of legislators, legislative counsel, the ACLU, staff from Senators Bates, Westlund, Morse and Brown’s offices.
100	Chair Brown	Asks if it is the intent of the -6 amendments to provide the maximum flexibility in hiring practices in regard to the issue of sexual orientation.
104	Sen. Westlund	Answers affirmatively.
106	Sen. Ferrioli	Asks who represented the religious organizations in the work group.
107	Sen. Westlund	Answers that he carried much of the will and intent.
111	Sen. Ferrioli	Perceives that there was not representation by bona fide religious organizations.

113	Chair Brown	Notes that Sen. Morse is a bona fide theologian.
126	Chair Brown	States there is not time to bring in all religious institutions in the state.
117	Sen. Ferrioli	States there was testimony from the Catholic church and other churches and asks which of them were consulted.
126	Sen. Westlund	States that the meeting was called to address their concerns.
132	Sen. Ferrioli	Comments on religious representation not being involved in the negotiation process.
133	Chair Brown	Responds that the meeting was not a negotiation, it was a meeting of the sponsors of the bill to address the concerns raised by Mr. Castagna and Ms. Smith.
145	Sen. Ferrioli	Asks if there was an attempt to broaden the exception clause for churches.
147	McKean	Responds the clause "or to its primary purpose" in the -2 amendments is not in the -6 amendments.
158	Sen. Ferrioli	Asks does this broaden the exemption or narrow it.
160	Sen. Westlund	Responds the specific purpose of the meeting was to broaden it in two areas; 1) the employee being exempted, and 2) to keep the core mission of a church or religious institution out of the courts.
189	Chair Brown	Refers to the listing of religious institutions.
196	Sen. Ferrioli	Notes that a "bona fide church" is not defined.
202	McKean	Responds that he has not done that research.
212	Chair Brown	Ask how long has the term been in Oregon statute.
215	Chair Brown	States the audience indicates since 1969.
217	Sen. Westlund	States there are court cases that have created a definition.
224	Sen. Ferrioli	Asks how religious activities are defined.
248	Chair Brown	Closes the public hearing on SB 1000 and opens a work session for the purpose of allowing Senator Shields to vote on HB 2136A, HB 2681A, HB 2862A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A and SJM 8.

HB 2136A, HB 2681A, HB 2862A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A and SJM 8 – WORK SESSION

264	Sen. Brown	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. SHIELDS to BE RECORDED as voting AYE on the "ADOPTION OF HB 2136A, HB 2681A, HB 2862A, HB 2878, HCR 9A, HJM 13A, HJM 15, HJM 16, HJM 18A, HJM 25A and SJM 8".
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266	Chair Brown	VOTE: 5-0-0 Hearing no objection, declares the motion CARRIED.
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268	Chair Brown	Re-opens the work session on SB 1000.
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SB 1000 – WORK SESSION

272	McKean	Responds to Senator Ferrioli's question stating that the language regarding religious activities in line 23 is not defined in the bill. Notes that it is a employment position that involves religious activities and those activities would be determined by the employer rather than the employee.
283	Chair Brown	Reiterates that the focus of the amendments is not about second guessing the employment decisions of religious institutions but rather to regulate the businesses engaged in commerce. The broadening of the language was to address the concerns raised by Mr. Castagna.
292	Sen. Ferrioli	States that there is a boundary in 7(c) that questions who would

313	McKean	make the decision about whether the exemption is sufficient. Responds that the Bureau of Labor is the enforcement agency. Adds that courts may have to define an employment position that is not connected to a commercial or business activity.
324	Chair Brown	Notes that United States Supreme Court requires certain connections between the institution and the activity.
328	McKean	Responds the Oregon courts have talked about the issue but is not sure if has been determined in the context of this statute.
335	Sen. Ferrioli	Clarifies for the record that if the boundary exists, the administrative remedies will end up in Bureau of Labor and Industries. Believes the appropriate approach would be to not include the state in state-church relationships, definitions or practices.
363	Chair Brown	Comments that discrimination is discussed in Chapter 659.
372	Sen. Ferrioli	States his concern is the approach; that a collision between church and state will be resolved at the Bureau of Labor and Industries.
352	Sen. Ringo	Disagrees. States that ultimately the courts have to interpret the language of the statute. Believes the language is appropriate.
370	Chair Brown	States the intent of "other" in 7(c) is referring to the list in 7(b) to ensure the list was inclusive rather than exclusive in case something arises that had not been thought of.
417	Sen. Ferrioli	Reiterates that a list lead to a boundary and a boundary leads to ambiguity and ambiguity leads to litigation.
427	Sen. Shields	States his perspective as a clergy person.
TAPE 142, B		
016	Sen. Ferrioli	Asks what does "substantially equivalent" mean.
018	McKean	Responds that "equivalent" is defined as equal in value or volume and "substantially" means in the same degree.
027	Sen. Ferrioli	Reads the standard definition from a dictionary and notes the word "substantially" could be considered a qualifier. States that creating practical equivalency to marriage in law is a constitutional violation.
057	Chair Brown	Asks does SB 1000 provide to same sex couples the exact same rights, responsibilities, and benefits that a marriage provides.
060	McKean	Answers he does not think it does.
062	Chair Brown	Asks if it is portable to another state other than Vermont, Massachusetts and maybe California. Asks will same sex couples be provided Medicaid benefits under federal law.
067	McKean	Answers no and that there is a host of federal benefits that Oregon partnerships would not be eligible for.
069	Chair Brown	Asks if same sex couples will be allowed to marry under this bill.
070	McKean	Answers no.
071	Sen. Ferrioli	Asks if an Oregon state statute could require a federal benefit.
072	McKean	Answers no, and that there are a lot of state tax laws that piggy back on federal requirements.
076	Chair Brown	Informs that the California Supreme Court ruled on this issue yesterday. The court focused on the actual benefits not the language and concluded that it is not the same.
094	Sen. Ferrioli	States that the word "the same" is not the problem, it is the quality of the benefits conferred. Concludes that it is his belief this is an invitation to a collision between church and state that will result in significant litigation and constitutional questions.
126	Chair Brown	States for the record that about a dozen states have passed ballot

measures and initiatives that prohibit civil unions; Ballot Measure 36 does not. Expands on what Ballot Measure does not do.

The committee recesses for three minutes.

154 Chair Brown MOTION: Moves to ADOPT SB 1000-3 amendments dated 6/24/05.

The committee recesses to assemble a full committee.

164 Chair Brown Reconvenes the meeting.

167 VOTE: 5-0-0

Chair Brown Hearing no objection, declares the motion CARRIED.

170 Chair Brown MOTION: Moves to ADOPT SB 1000-6 amendments dated 6/30/05.

170 VOTE: 5-0-0

Chair Brown Hearing no objection, declares the motion CARRIED.

171 Chair Brown MOTION: Moves to ADOPT SB 1000-7 amendments dated 6/30/05.

VOTE: 5-0-0

Chair Brown Hearing no objection, declares the motion CARRIED.

174 Chair Brown MOTION: Moves SB 1000 to the floor with a DO PASS AS AMENDED recommendation.

177 Sen. Ferrioli States concern that the bona fide religious organizations were not consulted on the religious exemption. Expands on concerns regarding ambiguities and states he will be a no vote.

200 VOTE: 3-2-0

AYE: 3 - Ringo, Shields, Brown

NAY: 2 - Atkinson, Ferrioli

Chair Brown The motion CARRIES.

SEN. BROWN will lead discussion on the floor.

206 Sen. Westlund Announces a courtesy Aye vote.

207 Sen. Ferrioli States that there will not be a minority report.

211 Chair Brown Closes the work session on SB 1000 and adjourns the meeting at 2:45 p.m.

EXHIBIT SUMMARY

- A. HB 2862A, Voyager Tuition Assistance Program issue brief, Dave McDonald, 1 p**
- B. SB 1000, -6 amendments, staff, 2 pp**
- C. SB 1000, -7 amendments, Senator Ben Westlund, 1 p**
- D. SB 1000, -2 amendments, staff, 4 pp**
- E. SB 1000, -3 amendments, staff, 4 pp**