

HOUSE COMMITTEE ON GENERAL GOVERNMENT

April 24, 2003 Hearing Room D
8:30 AM Tapes 71 - 72

MEMBERS PRESENT: Rep. Jerry Krummel, Chair
Rep. Donna Nelson, Vice-Chair
Rep. Floyd Prozanski, Vice-Chair
Rep. Brad Avakian
Rep. Derrick Kitts
Rep. John Mabrey
Rep. Kelley Wirth

STAFF PRESENT: Patrick Brennan, Committee Administrator
Jeana Harrington, Committee Assistant

MEASURES HEARD: HB 3101 – Work Session
HB 3023 – Work Session
HB 2167 – Work Session
SB 8 – 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 71, A		
004	Chair Krummel	Calls meeting to order at 8:46 AM. Opens work session on HB 3101.
<u>HB 3101 – WORK SESSION</u>		
008	Rep. Betsy Close	House District 15. Testifies in favor of HB 3101. Explains the -2 amendments (EXHIBIT A). Comments on the letter by Cindy Hunt, Legislative Counsel Office (LC), that was submitted by Rep. Prozanski (EXHIBIT B).
130	Norma Rich	Oregon Chapter, Concerned Women of America (CWA). Testifies in favor of HB 3101.
140	Rep. Close	Notes that librarians are now filing lawsuits because they have to police the use of computers at their libraries.
143	Chair Krummel	Asks if she think the filters will be successful.
146	Rep. Close	Believes filters are very effective. Offers that she uses them at home.
154	Rep. Nelson	Poses question regarding recent Washington State legislation.
159	Rich	Responds that those concerns are addressed in the -2 amendments.
162	Chair Krummel	Clarifies the law would be like that of Washington State.
168	Rich	Negates that it would not as amended.
172	Rep. Close	Believes it is in the best interest of the state to pass the bill.
179	Rep. Kitts	Asks who pays for the software required by the bill.
185	Rich	Refers the committee to a handout (EXHIBIT C).
190	Rep. Close	Explains the fiscal impact.
202	Rep. Kitts	Inquires that libraries will pay for the software with the budgets they have.
208	Rep. Close	Answers funding is not provided by the bill.

213	Rep. Kitts	Presumes the fiscal impact would warrant a subsequent referral to the committee on Ways and Means.
217	Rep. Close	Notes libraries already provide money for anti-virus software.
223	Chair Krummel	Refers the committee to the web address on the testimony provided for free anti-virus software on the testimony provided.
234	Rep. Kitts	Questions why there is not a subsequent referral.
239	Rep. Close	Counters that the estimate on cost is high. Notes that the potential lawsuits mentioned earlier would also cost the state money.
254	Rep. Kitts	Comments.
257	Chair Krummel	Remarks on the high cost of software.
264	Rep. Prozanski	Presumes Rep. Close would like to move the bill amended with the -2 amendments.
266	Rep. Close	Affirms.
268	Rep. Prozanski	Inquires if District 15 libraries utilize filters.
272	Rep. Close	Responds they do not have the software, and are worried about the cost.
278	Rep. Prozanski	Questions they are worried about the cost. Refers to the -2 amendments. Asks if the software would be capable of differentiating between the sex acts listed in the amendments.
290	Rep. Close	Explains the company she uses constantly monitors what it is filtering.
302	Rep. Prozanski	Asks if masturbation has been determined to be obscene.
306	Rep. Close	Explains the intent of the amendment.
310	Rep. Prozanski	Asks that there could be a conflict with the Oregon Constitution.
319	Rep. Close	Thinks the state is at the point where it should be forced to make judgment on the issue.
328	Rep. Prozanski	Asks why communities should not be allowed local control on the issue. Notes that the Oregon Constitution sides with local control.
334	Rep. Close	Offers that libraries receive federal and state funds.
345	Rep. Prozanski	Agrees that safe haven for children are necessary, but notes the state should not infringe on people's right to non-sexually explicit material that may be inadvertently filtered.
378	Rep. Close	Notes there are alternatives for research and users should work within the law.
387	Rep. Mabrey	Remarks on a story he already told previously regarding pornography. Voices concern that he would like to protect people from occurrences of pornography but believe the bill does not do so. Struggles with the issue. Asks if the committee could refer the bill to Ways and Means.
397	Seth Karpinski Patrick Brennan	City of Eugene. Submits written testimony (EXHIBIT D). Committee Administrator. Refers committee to the fiscal information provided.
401	Chair Krummel	Replies that it is possible as it may be an unfunded mandate.
403	Rep. Wirth	Voices concern for funds taken from libraries found to be in violation of the bill.
406	Rep. Close	Responds.
408	Rep. Wirth	Asks if Ready to Read grants could be removed.
410	Rep. Close	Responds the policy would be for all library computers.
TAPE 72, A		
002	Rep. Avakian	Acknowledges the concerns of some committee members but reiterates that Legislative Counsel has advised that the bill may be unconstitutional.
010	Rep. Close	Responds that protecting children is a compelling agreement and

027	Rep. Kitts	that she does not fully agree with the opinion of LC. Notes 105 libraries would need to purchase and the software. Notes the cost could be upwards of \$315,000 based upon the information provided by the Legislative Fiscal Office (LFO).
041	Brennan	Presumes the estimates provided by LFO may have been based on software choices made by Baker County.
051	Rep. Kitts	Clarifies the number.
053	Brennan	Responds he cannot tell if libraries are allowed to choose software and is unsure.
061	Rep. Avakian	Believes there is no problem in filtering obscene or illegal material, but explains the LC opinion is based in the fact that software can block permissible material.
075	Rep. Close	Responds that libraries are already selectively filtering in areas such as viruses. Explains she wants to see the courts draw a line on speech and protection. Quotes <i>Brown v. Louisiana</i> .
093	Rep. Nelson	MOTION: Moves to ADOPT HB 3101-2 amendments dated 4/15/03.
096	Rep. Prozanski	VOTE: 5-2
		AYE: 5 - Avakian, Kitts, Mabrey, Nelson, Krummel
		NAY: 2 - Prozanski, Wirth
	Chair Krummel	The motion CARRIES.
105	Rep. Nelson	MOTION: Moves HB 3101 to the floor with a DO PASS AS AMENDED recommendation.
115	Rep. Prozanski	MOTION: Moves to TABLE HB 3101.
125	Rep. Prozanski	VOTE: 3-4
		AYE: 3 - Avakian, Prozanski, Wirth
		NAY: 4 - Kitts, Mabrey, Nelson, Krummel
	Chair Krummel	The motion FAILS.
160	Patrick Brennan	Explains the motion. Requests the committee recess.
168	Rep. Prozanski	MOTION: Moves to POSTPONE DEFINITELY HB 3101 until August 15, 2003.
180	Chair Krummel	Remarks on the motion.
190	Rep. Kitts	Asks if the committee would be called back to deliberate on the matter after that time should the legislature have already adjourned Sine Die.
200	Chair Krummel	Explains his understanding of the bill. Notes if the legislatures was reconvened for special session the committee could potentially debate the bill at that time.
210	Rep. Prozanski	Explains his reasoning for the motion. Notes everyone one the committee feels children should be protected. Believes the bill is unconstitutional and will not be sustained by the courts.
220	Chair Krummel	Notes the date is debatable but not the issue.
225	Rep. Prozanski	Remarks.
230	Rep. Kitts	Asks if Rep. Prozanski would amend his motion to August 1, 2003.
234	Rep. Prozanski	Replies that date is acceptable.
237	Rep. Nelson	Clarifies the date.
241	Rep. Prozanski	MOTION: Moves to AMEND the motion Moves to POSTPONE DEFINITELY HB 3101 until August 15, 2003 by substituting "August 1, 2003" for "August 15, 2003".

253	Chair Krummel	Clarifies.
265		VOTE: 5-2 AYE: 5 - Kitts, Mabrey, Prozanski, Wirth, Krummel NAY: 2 - Avakian, Nelson
270	Chair Krummel	The motion CARRIES.
275	Chair Krummel	Explains the current motion to postpone consideration of the measure to August 1, 2003.
283	Rep. Nelson	Asks if the -2 amendments have been amended into the bill.
287	Chair Krummel	Affirms and explains the current motion.
301	Rep. Nelson	Clarifies the debate allowed.
306	Chair Krummel	Explains the only debate allowed on the current motion is the date to which the measure is to be postponed.
314	Ramona Kenady	Chief Clerk of the House. Explains that the merits of the bill cannot be debated, only the time period.
318	Rep. Nelson	Believes protection and safety of children is a state priority.
337	Chair Krummel	Asserts the debate must be kept to the time.
343	Rep. Nelson	Continues and questions why the bill must be postponed.
350	Rep. Prozanski	Explains the reasoning behind the definite postponement of the bill as it may allow proponents to work on the bill.
372	Rep. Nelson	Requests clarification as to the purpose of the current motion.
384	Rep. Mabrey	Asks whether any work could be done on the measure outside of the committee if the motion passes.
395	Chair Krummel	Understands that if the bill is postponed, the current version of the bill may not return until the date agreed upon.
TAPE 71, B		
004	Kenady	Explains the bill would postpone discussion of the current bill until the date allowed unless rules are suspended.
018	Rep. Avakian	Asks that is Sine Die occurs, can the bill move in an interim committee.
023	Kenady	Notes that interim discusses measures, and the measure could be pre-filed and that content, not vehicle could be continued and researched.
031	Rep. Kitts	Asks if Rep. Close agrees to the definite date moved.
041	Rep. Close	Voices concern that the bill will die in committee.
046	Rep. Prozanski	Repeats current motion to postpone definitely HB 3101 to August 1, 2003.
050		VOTE: 3-4 AYE: 3 - Avakian, Prozanski, Wirth NAY: 4 - Kitts, Mabrey, Nelson, Krummel
	Chair Krummel	The motion FAILS.
057	Chair Krummel	Discusses options for the bill. Requests Rep. Nelson to withdraw her motion to send HB 3101 to the floor as amended.
063	Rep. Nelson	Declines to withdraw her motion.
066	Rep. Kitts	Seconds the request to withdraw the motion in order to allow Rep. Close to work the bill further.
075	Rep. Kitts	MOTION: Moves to POSTPONE DEFINITELY HB 3101 until April 29, 2003.
085	Rep. Mabrey	Poses question.
089	Chair Krummel	Explains the question is not germane and cannot be heard.
100	Rep. Prozanski	Voices concern the date is too soon to allow for work on the bill as amended. Does not support the motion for the selected date.
112	Chair Krummel	States he will support the motion, believes the carrier will have

time to work on the bill. Notes the bill will be scheduled for committee on Tuesday and explains the probably work session on the bill.

128 **Chair Krummel** **VOTE: 3-4**
AYE: 3 - Kitts, Mabrey, Krummel
NAY: 4 - Avakian, Nelson, Prozanski, Wirth
The motion FAILS.

133 Chair Krummel States he will support the bill's movement to the floor. Notes situation in Judiciary Committee where constitutional issues and a written opinion from LC opinion were ignored. Chooses to disregard the LC opinion.

150 Rep. Prozanski Clarifies the letter was not of constitutional issues, but of fiduciary duties required by the bill. Differentiates the two.

160 Chair Krummel Appreciates those comments.

162 Rep. Kitts Poses procedural question.

171 Chair Krummel Explains the situation concerning a conference committee.

175 Rep. Kitts States he will vote against Rep. Nelson's motion to move the bill to the floor.

183 Rep. Nelson Comments on the motion. Speaks on the safety and security of children.

197 Rep. Avakian Respects the intent behind the bill. Notes that each of the committee members took an oath to uphold the Constitution and argues that they should not support the measure on that basis.

208 Rep. Nelson Responds that constitutionality is subject to interpretation.

214 Rep. Wirth Opposes sending the bill to the floor. Believes violators should not be penalized by withholding funds for programs supporting children and otherwise.

235 Rep. Prozanski States the bill is unconstitutional based on the only legal opinion presented to the committee and for those reasons, that judgment must be relied upon and not interpret it as the committee sees fit.

250 Rep. Mabrey States he will be voting against the bill to the floor as he is not fully informed.

257 **Rep. Avakian** **MOTION: Moves the previous question.**
260 **VOTE: 5-2**
AYE: 5 - Avakian, Mabrey, Prozanski, Wirth, Krummel
NAY: 2 - Kitts, Nelson
The motion CARRIES.

299 Rep. Nelson Repeats the current motion to send the bill to the floor as amended.

310 **Chair Krummel** **VOTE: 3-4**
AYE: 3 - Kitts, Nelson, Krummel
NAY: 4 - Avakian, Mabrey, Prozanski, Wirth
The motion FAILS.

320 **Rep. Mabrey** **MOTION: Moves HB 3101 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means.**

323 **Rep. Kitts** **MOTION: Moves to TABLE HB 3101 AS AMENDED definitely until May 1, 2003.**

341 Rep. Kitts Requests time to review new amendment and related information.

263

VOTE: 4-3

AYE: 4 - Kitts, Mabrey, Wirth, Krummel

NAY: 3 - Avakian, Nelson, Prozanski

Chair Krummel

The motion CARRIES.

Rep. Mabrey's motion to refer HB 3101 as amended to the committee on Ways and Means is made moot by the passage of the motion to postpone the measure definitely until May 1, 2003.

378

Chair Krummel

Closes work session on HB 3101. Opens work session on HB 3023.

HB 3023 – WORK SESSION

390

Patrick Brennan

Reads SMS on HB 3023. Explains the -2 amendments **(EXHIBIT E)**.

399

Chair Krummel

Notes he would like to move the bill today.

400

Rep. Prozanski

MOTION: Moves to ADOPT HB 3023-2 amendments dated 4/2/03.

403

VOTE: 7-0

Chair Krummel

Hearing no objection, declares the motion CARRIED.

409

Rep. Prozanski

MOTION: Moves HB 3023 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.

VOTE: 7-0

AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.

Chair Krummel

412

Chair Krummel

Closes work session on HB 3023. Opens work session on SB 8.

SB 8 – WORK SESSION

414

Rep. Prozanski

MOTION: Moves to ADOPT SB 8-1 amendments dated 4/23/03.

417

Chair Krummel

Reminds the committee the emergency clause constitutes the -1 amendment **(EXHIBIT F)**.

419

VOTE: 7-0

Chair Krummel

Hearing no objection, declares the motion CARRIED.

422

Rep. Prozanski

MOTION: Moves SB 8 to the floor with a DO PASS AS AMENDED recommendation.

424

VOTE: 7-0

Chair Krummel

AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.

REP. PROZANSKI will lead discussion on the floor.

426

Chair Krummel

Closes work session on SB 8. Opens work session on HB 2167.

TAPE 72, B

HB 2167 – WORK SESSION

013

Rep. Prozanski

MOTION: Moves to ADOPT HB 2167-1 amendments dated 4/18/03.

015

Chair Krummel

Explains the -1 amendments **(EXHIBIT G)**.

026

Jack Kenny

Oregon Housing and Community Services (OHCS). States the allowances for the Oregon Commission on Voluntary Action and Service (OCVAS) and adds the commission and OHCS both support the bill.

032

Chair Krummel

Clarifies Rep. Gilman's involvement with the amendments.

035

Kenny

Concurs.

037

VOTE: 7-0

Chair Krummel

Hearing no objection, declares the motion CARRIED.

040 Rep. Prozanski MOTION: Moves HB 2167 to the floor with a DO PASS AS
AMENDED recommendation.
042 VOTE: 6-1
AYE: 6 - Avakian, Kitts, Mabrey, Prozanski, Wirth,
Krummel
NAY: 1 - Nelson
Chair Krummel The motion CARRIES.
REP. GILMAN will lead discussion on the floor.
044 Chair Krummel Closes work session on HB 2167. Adjourns meeting at 10:48
AM.

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EXHIBIT SUMMARY

- A – HB 3101-2, Staff, 2 pp
- B – HB 3101, Rep. Floyd Prozanski, 2 pp
- C – HB 3101, Norma Rich, 1 p
- D – HB 3101, Seth Karpinski, 1 p
- E – HB 3023-2, 1 p
- F – SB 8-1, Staff, 1 p
- G – HB 2167-1, Staff, 2 pp