

HOUSE COMMITTEE ON JUDICIARY

January 22, 2003 Hearing Room 357

1:00 p.m. Tapes 11 - 12

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, Vice-Chair
 Rep. Jeff Barker
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

MEMBER EXCUSED: Rep. Bob Jenson

STAFF PRESENT: Bill Joseph, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2059 Public Hearing**
 HB 2060 Public Hearing
 HB 2061 Public Hearing
 HB 2064 Public Hearing and Work Session
 HB 2066 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 11, A | | |
| 003 | Chair Williams | Calls the meeting to order at 1:06 p.m. Opens a public hearing on HB 2059. |
| <u>HB 2059 PUBLIC HEARING</u> | | |
| 008 | Bill Joseph | Committee Counsel. Introduces HB 2059 which sets procedure for filing bond or depositing money when possessory chattel lien is claimed for storage of chattel. |
| 030 | Gary Blacklidge | Oregon State Bar. Testifies in support of HB 2059 and submits testimony (EXHIBIT A). |
| 059 | Al Elkins | Oregon Tow Truck Association. Testifies in opposition to HB 2059. |
| 088 | Deb Elkins | NW Auto Trades Association. Testifies in opposition to HB 2059. |
| 107 | Vice-Chair Anderson | Asks how this impacts the counties and cities that often take cars for violations. |
| 110 | Al Elkins | Answers that the scenarios impacted by this chapter do not involve police tows. |
| 126 | Vice-Chair Ackerman | Asks for clarification on the additional costs for their industry. |
| 134 | Rep. Shetterly | Asks what the typical amount of a lien claim is. |
| 138 | Al Elkins | Answers that he does not know that amount, but has asked for it. |
| 142 | Chair Williams | States that he is interested in getting this resolved and discusses |

changes in the process issues of the bill.

162 Elkins Says that he agrees.

170 Vice-Chair Ackerman Discusses a possible compromise regarding the bond and the attorney's fees.

177 Blacklidge Adds that this bill will only amend the possessory chattel liens under ORS 87.152-ORS 87.162.

204 Chair Williams Suggests that they work on the bill. Closes the public hearing on HB 2059 and opens a public hearing on HB 2060.

HB 2060 PUBLIC HEARING

219 Bill Joseph Committee Counsel. Introduces HB 2060 which directs trustee foreclosing trust deed.

244 Gary Blacklidge Oregon State Bar. Submits testimony and testifies in support of HB 2060 (**EXHIBIT B**).

310 Vice-Chair Ackerman Says that he detects some problems with the bill. Asks when the affidavit is supposed to be mailed.

338 Blacklidge Answers that it must be mailed 15 days prior to the date last set for the sale.

355 Vice-Chair Ackerman Asks if it would be more prudent to extend the 15-day requirement to 25 days.

369 Blacklidge Responds that they thought about it, but decided it would be a trade-off and thought the 15-days was a good compromise.

403 Rep. Shetterly Wonders if the debtor could ask for a response within a few days.

TAPE 12, A

015 Blacklidge Replies that that would work provided the trustee could not conduct the sale until a period of time after they responded to the debtor.

055 Chair Williams Replies that this does raise an interesting point especially since there are potential third-party bidders. Closes the public hearing on HB 2060 and opens a public hearing on HB 2061.

HB 2061 PUBLIC HEARING

069 Bill Joseph Committee Counsel. Introduces HB 2061 which modifies law relating to property that is exempt from execution for purpose of application against debt.

085 Gary Blacklidge Oregon State Bar. Submits testimony and testifies in support of HB 2061 (**EXHIBIT C**).

144 Rep. Shetterly Asks if they issue an execution against two people (a husband and wife).

150 Blacklidge Responds yes, with a garnishment or a contract payment.

155 Rep. Shetterly Asks if a husband and wife were both victims of a crime, then why would they not both receive awards.

180 Blacklidge Answers that in the situation of crime victim reparation, the entire amount is exempt, but in the situation of personal bodily injury, each debtor has the right to exempt up to \$10,000 of the award.

182 Rep. Shetterly States that the form is unclear.

191 Chair Williams Says that he understands that the judgment is individual to each person.

205 Blacklidge Suggests changes to the form.

225 Chair Williams Closes the public hearing on HB 2061 and opens a public hearing on HB 2064.

HB 2064 PUBLIC HEARING

253 Bill Joseph Committee Counsel. Introduces HB 2064, which creates declaration

under penalty of perjury as alternative to affidavit under Oregon Rules of Civil Procedure.

269 Kevin Chames Oregon State Bar. Testifies in support of HB 2064 and submits testimony (**EXHIBIT D**).

328 Rep. Macpherson Asks if it is common to have notary publics in a law office.

335 Chames Answers that it probably is, but there are many attorneys that are always looking for notary publics.

346 Chair Williams Says that he knows of several solo practitioners that have become notary publics and asks what position the Council on Court Procedures takes on this bill.

380 Karsten Rasmussen Lane County Judge. Testifies in support of HB 2064. States that the Council on Court Procedures supports the bill.

403 Chair Williams Closes the public hearing on HB 2064 and opens a work session.

HB 2064 WORK SESSION

440 Chair Williams **MOTION: Moves HB 2064 to the floor with a DO PASS recommendation.**

VOTE: 8-0-1

EXCUSED: 1 - Jenson

442 Chair Williams **Hearing no objection, declares the motion CARRIED.**

REP. BARKER will lead discussion on the floor.

445 Chair Williams Closes the work session on HB 2064 and opens a public hearing on HB 2066.

HB 2066 PUBLIC HEARING

447 Bill Joseph Committee Counsel. Introduces HB 2066 which makes miscellaneous changes to laws governing courts.

TAPE 11, B

004 Bradd Swank Office of the State Court Administrator. Submits testimony and testifies in support of HB 2066 (**EXHIBIT E**).

056 Rep. Krummel Asks what kind of due process will a defendant have if their driving privileges are going to be revoked.

059 Swank Answers that this only applies in instances where they failed to appear and this is only for non-traffic violations. Explains the process.

083 Rep. Krummel Asks about redundancy of “oath of offices” in the bill.

097 Swank Responds that he didn’t write the legislation.

106 Rep. Krummel Asks if he is wrong in assuming that the Oregon Constitution states what a judge’s oath shall be.

112 Swank Answers that the Oregon Constitution states what the oath is for Supreme Court Justices, but not for the other courts.

121 Rep. Krummel Asks if the Chief Justice has the constitutional to prescribe the oath for the lower courts.

124 Swank Replies, not currently.

133 Vice-Chair Anderson Wonders why the other judges of the state do not take the same oath as the Chief Justice. Thinks that each court should follow the same standard.

150 Rep. Shetterly Questions the language in section 1, regarding court trials and traffic offenses.

169 Swank Answers that this bill amends ORS 153.070 so that courts do not have to schedule trials on “failure to appear” citations for non-traffic violations.

198 Rep. Barker Asks why they don’t use the same oath for all justices.

| | | |
|-----|----------------|--|
| 213 | Swank | Says that it is easier to change something by the Chief Justice, than the Constitution, and that there will be some discussion on which language to use. |
| 228 | Rep. Shetterly | Discusses Section 1 of bill. |
| 249 | Chair Williams | Comments on testimony of Layne Barlow (EXHIBIT F). |
| 260 | Swank | States that he discussed Section 1 with Legislative Counsel and they decided on the amendments. |
| 269 | Chair Williams | Suggests returning to the committee after discussing possible changes with Chief Justice Carson. |
| 320 | Chair Williams | Closes the public hearing on HB 2066 and adjourns the meeting at 2:22 p.m. |

EXHIBIT SUMMARY

A – HB 2059, written testimony, submitted by Gary Blacklidge, Oregon State Bar, dated 1/22/03, 2 pgs.

B – HB 2060, written testimony, submitted by Gary Blacklidge, Oregon State Bar, dated 1/22/03, 2 pgs.

C – HB 2061, written testimony, submitted by Gary Blacklidge, Oregon State Bar, dated 1/22/03, 2 pgs.

D – HB 2064, written testimony, submitted by Kevin Chames, Oregon State Bar, dated 1/22/03, 1 pg.

E – HB 2066, written testimony, submitted by Bradd Swank, Office of the State Court Administrator, dated 1/22/03, 2 pgs.

F – HB 2066, written testimony, submitted by facsimile by Layne Barlow, Bend, dated 1/22/03, 1 pg.

G – HB 2064, written testimony, submitted by facsimile by Layne Barlow, Bend, dated 1/22/03, 1 pg.