

HOUSE COMMITTEE ON JUDICIARY

February 12, 2003 Hearing Room 357
1:00 p.m. Tapes 32 - 33

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

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

MEASURE/ISSUES HEARD: HB 2075 Public Hearing
 HB 2204 Public Hearing
 HB 2269 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 32, A		
004	Chair Williams	Calls the meeting to order at 1:35 p.m.
<u>HB 2075 PUBLIC HEARING</u>		
011	Bill Joseph	Committee Counsel. Introduces HB 2075 which revises laws relating to form of business entities.
020	Andrew J. Morrow, Jr.	Oregon State Bar. Submits testimony and testifies in support of HB 2075 (EXHIBIT A). Discusses -2 and -3 amendments (EXHIBITS B & C).
068	Robert C. Art	Oregon State Bar. Professor, Willamette University Law School. Submits testimony and testifies in support of HB 2075 (EXHIBIT D).
112	Chair Williams	Asks if it is difficult for Oregon to keep up with the Model Business Corporation Act since the Legislature meets every other year.
137	Art	Responds that he has not experienced a difficulty.
146	Morrow	Believes that there have been some difficulties. Says that the liability provisions that are in the Oregon Statute have been most dramatic in the differences among the states, but they have been doing a good job at keeping current.
169	Chair Williams	Wonders if most states follow the "model act" or do they watch Delaware more closely.
174	Morrow	Says that the corporation acts of most states tend to follow the model act.
189	Rep. Shetterly	Asks for clarification of the new language on page 4, Section 3,

subsection (b).

215 Art Answers that his interpretation is that the person who makes the request revokes the request.

218 Rep. Shetterly Wonders when there are hundreds of shareholders requesting a special meeting, how is it clear that those same shareholders have to revoke the request.

230 Morrow Says that the process of getting a written request makes it final.

262 Chair Williams Explains that you cannot revoke what wasn't yours in the first place.

271 Rep. Shetterly Says he understands, but thinks it needs some clarification.

287 Morrow Replies that he would not object to the clarification.

297 Rep. Macpherson Comments on the language used on page 4, section (b) of the bill.

300 Rep. Krummel Thinks that the language is very confusing regarding revocation and the timing.

331 Rep. Shetterly Talks about how the language is passive, not active.

337 Chair Williams Asks Professor Art if the language is modeled after the Model Business Corporation Act.

338 Art Answers that he is fairly certain that this is "model act" language, but adds that it would not be objectionable to change the language.

359 Rep. Jenson Questions the language "fair" on Page 5, Section 5, subsection (3).

374 Art Agrees that "fair" is a very open-ended term and explains reason for that term.

380 Chair Williams Discusses the language of "fair".

TAPE 33, A

003 Morrow Summarizes the -2 amendments (**Exhibit B**).

018 Jack Evans Oregon Rural Electric Cooperative Association (ORECA). Submits testimony and testifies in support of HB 2075 (**EXHIBIT E**).

051 Chair Williams Discusses Section 3 of the bill and talks about making a -4 amendment. Closes the public hearing on HB 2075 and opens a public hearing on HB 2204.

HB 2204 PUBLIC HEARING

077 Bill Joseph Committee Counsel. Introduces HB 2204 which expands crime of criminal trespass in first degree to include entering and remaining unlawfully on private premises that have been closed to protect water quality.

090 Gregg Cline Department of Forestry. Submits testimony and testifies in support of HB 2204 (**EXHIBIT F**).

142 Rep. Prozanski Inquires why they are changing the charge to a Class A misdemeanor.

152 Cline Answers that it provides the landowner with a little more leverage for detour unauthorized road use.

161 Rep. Prozanski Asks if current statute has not been effective in detouring individuals from violating that law.

167 Cline Answers that he doesn't have that quantified and needs to work with the other agencies to verify that there is an issue.

176 Rep. Prozanski Describes the difference in the penalties for Class A and Class C misdemeanors.

198 Cline States that in Eastern Oregon there is a growing concern with many landowners of private property rights and the change in the law would be helpful.

204 Vice-Chair Ackerman Asks what the definition of a motor propelled vehicle includes.

210	Cline	Says that would include all motorized vehicles.
218	Vice-Chair Ackerman	Asks what happens if the driver doesn't see a sign.
222	Cline	Answers that he doesn't know, but thinks that would be an "out" for the defendant.
231	Vice-Chair Ackerman	Asks why the date October 1 is in the bill.
240	Cline	Says that they are focusing on the rainy season that starts in late October through the winter.
248	Rep. Macpherson	Wonders how a private landowner can elevate the criminal sanction without any approval process for water protection.
259	Cline	Answers that those roads would have to be approved through an agency.
282	Rep. Barker	Comments that the penalty is really extreme.
290	Rep. Jenson	States grave reservations about the proposed legislation and wonders what the reason is for the landowners to be provided signs.
305	Cline	Explains that they could apply for a grant for the production of signs if necessary.
327	Rep. Jenson	Says that he is concerned about the issue of the timing of the protection during the winter months because of hunting season. Questions why this legislation did not appear in a natural resources committee.
355	Chair Williams	Answers that he thinks it's because this bill creates a new crime. Discusses potential referral to the Water Committee.
397	Rep. Jenson	States that he would like a possible referral of the bill to the Water Committee.

TAPE 32, B

001	Rep. Prozanski	Comments that the bill is very broad.
007	Cline	Says that the intent was only to post signs on those roads that would significantly have an impact on water quality.
012	Rep. Prozanski	Suggests amendments that will set criteria to designate land or roads as sensitive areas for protecting water quality.
020	Rep. Macpherson	Suggests confiscation penalty related to vehicle.
027	Chair Williams	Stresses that criminal forfeiture is no longer easy to do and it would not be worth the effort.
045	Vice-Chair Anderson	Wonders about forest-land property owners as related to this bill.
055	Cline	Says that they would still have the trespass law in place for those people.
062	Rep. Barker	Says that the bill is too broad and doesn't see how it will protect water.
070	Cline	Reports that the bill was supposed to be specific for a specific problem.
080	Chair Williams	Closes the public hearing on HB 2204 and opens a work session on HB 2269.

HB 2269 WORK SESSION

082	Chair Williams	Discusses the -1 amendments (EXHIBIT G).
090	Rep. Shetterly	Says that the amendments add an emergency clause. Explains the bill which establishes rules governing operation of nontestamentary trusts.
124	Rep. Shetterly	MOTION: Moves to ADOPT HB 2269-1 amendments dated 02/06/03. VOTE: 8-0-1 EXCUSED: 1 - Barker

125	Chair Williams	Hearing no objection, declares the motion CARRIED.
126	Rep. Shetterly	MOTION: Moves HB 2269 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 8-0-1 EXCUSED: 1 - Barker
128	Chair Williams	Hearing no objection, declares the motion CARRIED. MACPHERSON will lead discussion on the floor.
156	Chair Williams	Closes the public hearing on HB 2269 and adjourns the meeting at 3:00 p.m.

EXHIBIT SUMMARY

A – HB 2075, written testimony, submitted by Andrew Morrow, Jr., Oregon State Bar, dated 2/12/03, 4 pgs.

B – HB 2075, -2 amendments, submitted by staff, dated 2/4/03, 7 pgs.

C – HB 2075, -3 amendments, submitted by staff, dated 2/12/03, 7 pgs.

D – HB 2075, written testimony, submitted by Robert Art, Professor, Willamette University College of Law, dated 2/12/03, 4 pgs.

E – HB 2075, written testimony, submitted by Jack Evans, ORECA, dated 2/12/03, 1 pg.

F – HB 2204, written testimony, submitted by Gregg Cline, dated 2/12/03, 2 pgs.

G – HB 2269, -1 amendments, submitted by staff, dated 2/6/03, 1 pg.