

HOUSE COMMITTEE ON JUDICIARY

March 25, 2003 Hearing Room 357
1:00 pm Tapes 102 - 105

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
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2449 Public Hearing and Work Session**
 HB 2646 Public Hearing
 HB 2696 Public Hearing
 HB 2275 Work Session
 HB 2276 Work Session
 HB 2177 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 102, A		
003	Chair Williams	Opens meeting at 1:10 pm. Opens public hearing on HB 2449.
<u>HB 2449 PUBLIC HEARING</u>		
010	Bill Joseph	Committee Counsel. Explains HB 2449 which increases civil penalties for abuse of elderly or incapacitated person to three times actual economic and noneconomic damages.
025	Rep. Mark Hass	House District 27. Introduces Col. Ken Reusser. Testifies in support of HB 2449 and submits (EXHIBITS A and B) .
040	Col. Ken Reusser	U. S. Veteran born in 1920 from Beaverton. Testifies in support of HB 2449. Relates personal experience of having his money embezzled.
087	Virginia Mitchell	Attorney who represents seniors. Testifies in support of HB 2449. Says fraud against elders has increased five fold in the last few years. Gives examples of elderly clients who have been swindled.
222	Mitchell	Continues discussing how attorney threats can help return money to victims. Discusses disadvantages of punitive damages. Discusses reasons to pass HB 2449: <ul style="list-style-type: none">• There is a growing elderly population.• The elderly often own their homes, have a nest egg.• There is a great transfer of wealth between generations now.• The elderly generation is more trusting.

- The elderly are less likely to report fraud because they do not know where to report and they may be ashamed.
 - There may be competency issues involved.
- 317 Steven Schneider Deputy Chief of Staff for Governor Kulongoski. Says the Governor supports HB 2449. Describes how individuals and corporations target seniors. Describes fraudulent acts against seniors by individuals. Relates effects of fraud on senior citizens' lives. States that once elders lose money, their health declines. States the greatest elder abuse is neglect and that needs to be addressed by the legislature, but it is not part of HB 2449.
- 392 Jim Davis United Seniors of Oregon, Alzheimers Association, Gray Panthers. Testifies in support of HB 2449. Describes financial exploitation of seniors and disabled persons. Family members and strangers can both be exploiters.

TAPE 103, A

- 025 Grady Tarbutton Washington County Aging and Disabilities Services. Testifies in support of HB 2449. Describes the number of senior abuse cases reported each month to the county; about half are financial exploitation. Describes ways of building public awareness about financial exploitation of the elderly. Explains how the resulting problems from abuse and neglect of the elderly reflect in costs to the public in general.
- 077 Rep. Shetterly Comments on the expanding problems of abuse and neglect of the elderly. Refers to statute ORS 124.100 and other related statutes .
- 089 Schneider Talks about abuse and neglect of elderly.
- 098 Rep. Prozanski Asks what is happening in other states in regards to neglect of elderly persons.
- 118 Tarbutton Answers they will look into that.
- 120 Schneider Answers they will look into that. Describes how victims are not able to testify due to health, competency, family relations, etc.
- 125 Chair Williams Explains that this bill should move and wants the issue to be broadened in future legislation.
- 140 Chair Williams Closes public hearing on HB 2449. Opens work session on HB 2449.

HB 2449 WORK SESSION

- 150 Rep. Prozanski **MOTION: Moves HB 2449 to the floor with a DO PASS recommendation.**
- VOTE: 9-0**
- 151 Chair Williams **Hearing no objection, declares the motion CARRIED. REP. JENSON will lead discussion on the floor.**
- 200 Chair Williams Closes work session on HB 2449. Opens public hearing on HB 2646.

HB 2646 PUBLIC HEARING

- 205 David Heynderickx Legislative Counsel. Explains HB 2646 which revises laws relating to judgments. Testifies in support of HB 2646 **(EXHIBIT C)**. Discusses different kinds of judgments that resolve claims.
- 305 Heynderickx Continues explaining the HB 2646 work group discussions.
- 422 Heynderickx Explains "limited judgments." States the bill asks that all judgments be labeled either "general limited" or "supplemental." Explains section 11 that makes a statement about the "effect of a judgment."

TAPE 102, B

018 Chair Williams Points out there are amendments to be put forth on HB 2646. Recognizes the hard work of the people in the work group. Explains this bill will address part of the law that needs fixing. Promises this bill will be back for further hearing.

055 Vice Chair Ackerman Comments on the creation of judgment liens, section 5, requiring monetary awards be placed in certain sections.

060 Heynderickx Responds that part of the bill is carried forth under existing law ORCP 70. The bill does apply to civil and criminal judgments.

077 Chair Williams Encourages the committee to read the report and understand the bill.

099 John Powell Oregon State Sheriffs Association. Agrees this is an attorneys' bill. Section 37 and 38 deal with sheriffs' duties and writ of execution. Recommends with some adjustments in those sections, HB 2646 would be acceptable.

147 Chair Williams Closes public hearing on HB 2646. Opens public hearing on HB 2696.

HB 2696 PUBLIC HEARING

150 Bill Joseph Committee Counsel. Explains HB 2696 that modifies definition of public assistance.

171 Martin Taylor Oregon Law Center. Explains what HB 2696 does. Discusses whether policy should be consistent standards or is flexibility a better process. Refers to the fiscal impact of this bill.

230 Lorey Freeman Oregon Law Center. Speaks about DHS Jobs Program. Describes basic needs of workers to reduce the barriers to employment. Testifies in support of HB 2696 and submits testimony (**EXHIBIT D**). States this bill is good public policy.

330 Ellen Lowe Legislative Advocate, Oregon Food Bank. Describes how Oregon Food Bank operates. Emphasizes that a timely review of service requests is important. Testifies in support of HB 2696 and submits testimony (**EXHIBIT E**).

TAPE 103, B

023 Chair Williams Restates this bill allows use of administrative law procedure to challenge a contested case proceeding with the agency.

031 Rep. Shetterly Reiterates that the question the bill addresses is whether the venue for review is through the circuit court or hearing officer panel.

035 Rep. Krummel Refers to section 15 that repeals ORS 411.121, ORS 860 and ORS 865. Asks if the work relief programs should be eliminated.

053 Freeman Explains that parts of the bill are being cleaned up.

100 Vice Chair Ackerman Asks if cases are appealed to circuit court, is a filing fee and possible trial fee incurred.

104 Freeman Answers that is correct.

110 Vice Chair Ackerman Asks how much the fee is.

112 Freeman Responds about \$125 filing fee.

114 Vice Chair Ackerman Comments that there is no cost in administrative law proceeding.

129 Chair Williams Wants HB 2696 worked out between DHS and the proponents as to the fiscal. Will spend some time on this issue before a policy is determined by the committee.

150 Michael Buckley Department of Human Services (DHS). Testifies in opposition to HB 2696 and submits testimony (**EXHIBIT F**). Explains how standards would limit flexibility in support services programs.

300 Buckley Continues explaining costs to DHS. Says the bill would create

388 Elizabeth Lopez sufficient complexity at the expense of the program. Office of Financial Benefits, DHS. Describes how public assistance programs are administered. Testifies in opposition to HB 2696 because it is too broad and submits testimony (**EXHIBIT G**). States that section 13h adds to the definition of public assistance and could open up hearing rights. States HB 2696 will have unintended consequences that increase costs.

TAPE 104, A

030 Mark Troseth DHS. Testifies in opposition to HB 2696. Describes how the programs will be slowed down and add costs to DHS.

040 Chair Williams Comments on the need for flexibility and possibility of arbitrary determinations of benefits.

087 Rep. Shetterly Says currently these clients are not being provided notice of their right to seek review in circuit court.

099 Rep. Krummel Asks why there will be increases in hearings.

112 Buckley Responds that DHS routinely offers the opportunity to request conciliation. Says less than 2% of clients have administrative hearings.

140 Chair Williams Asks the sides of this bill to get together so that the fiscal impact can be discussed later.

153 Vice Chair Ackerman Refers to page 2 of Mr. Buckley's testimony. Suggests the parties come up with ideas on how to mediate before the hearings process.

160 Rep. Jenson Expresses concern that the number of hearings will be increased.

189 Chair Williams Closes public hearing on HB 2696. Opens work session on HB 2275.

190 Staff Submits testimony for Tina Kotek, Children First of Oregon in support of HB 2696 (**EXHIBIT H**).

HB 2275 WORK SESSION

195 Bill Joseph Committee Counsel. Explains HB 2275 which prohibits unlawful discrimination based on age by place of public accommodation under certain circumstances. Explains the -4 and the -5 amendments.

245 Marcia Ohlemiller Bureau of Labor and Industries (BOLI). Testifies in support of HB 2275 and submits testimony (**EXHIBIT I**). Explains the -4 and -5 amendments (**EXHIBIT J**)

248 Rep. Shetterly Asks if there have been claims that have been rejected on account of this drafting error.

249 Ohlemiller Replies she is not aware of any.

250 Rep. Prozanski MOTION: Moves to ADOPT HB 2275-5 amendments dated 03/18/03.

VOTE: 9-0

251 Chair Williams Hearing no objection, declares the motion CARRIED.

252 Rep. Prozanski MOTION: Moves HB 2275 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 9-0

253 Chair Williams Hearing no objection, declares the motion CARRIED. REP. SHETTERLY will lead discussion on the floor.

254 Chair Williams Closes work session HB 2275. Opens work session on HB 2276.

HB 2276 WORK SESSION

340 Marcia Ohlemiller Bureau of Labor and Industries (BOLI). Explains HB 2276 which permits compensatory and punitive damages in civil action for violation of certain injured worker rights. Addresses a

385	Rep. Shetterly	drafting error. Testifies in support of HB 2276 with the -5 amendments and submits testimony (EXHIBITS K and L).
352	Rep. Shetterly	Says this is consistent with HB 2275 policy. MOTION: Moves to ADOPT HB 2276-5 amendments dated 03/17/03. VOTE: 9-0
355	Chair Williams	Hearing no objection, declares the motion CARRIED.
357	Rep. Shetterly	MOTION: Moves HB 2276 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 9-0
358	Chair Williams	Hearing no objection, declares the motion CARRIED.
360	Chair Williams	REP. SHETTERLY will lead discussion on the floor. Closes work session on HB 2276. Opens work session on HB 2177.

HB 2177 WORK SESSION
TAPE 105, A

001	Craig Prins	Committee Counsel. Explains HB 2177 which provides that inmates may not bring civil stalking action against officer, employee or agent of Department of Corrections for official conduct of officer, employee or agent. Explains -6 amendments are the same as -5 with emergency clause. Submits the-6 amendments (EXHIBIT M).
037	Rep. Krummel	Asks about the issue of police officers in their normal duties exempt from certain statutes.
043	Chair Williams	Explains why HB 2177 is needed to prevent disruption management of facilities.
055	Rep. Prozanski	MOTION: Moves to ADOPT HB 2177-6 amendments dated 03/21/03. VOTE: 9-0
056	Chair Williams	Hearing no objection, declares the motion CARRIED.
058	Rep. Prozanski	MOTION: Moves HB 2177 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 9-0
060	Chair Williams	Hearing no objection, declares the motion CARRIED.
066	Chair Williams	REP. BARKER will lead discussion on the floor. Closes the work session on HB 2177 and adjourns meeting at 3:30 pm.

EXHIBIT SUMMARY

A – HB 2449, written testimony, Rep. Mark Hass, 1 p
B – HB 2449, written testimony, Rep. Mark Hass, 5 pp
C – HB 2646, written testimony, David Heynderickx, 24 pp
D – HB 2696, written testimony, Lorey Freeman, 4 pp
E – HB 2696, written testimony, Ellen Lowe, 1 p
F – HB 2696, written testimony, Michael Buckley, 5 pp
G – HB 2696, written testimony, Elizabeth Lopez, 2 pp
H – HB 2696, written testimony of Tina Kotek, Staff, 1 p
I – HB 2696, written testimony, Marcia Ohlemiller, 2 pp
J – HB 2275-5 and -4 amendments, staff, 3 pp
K – HB 2276, written testimony, Marcia Ohlemiller, 2pp

L – HB 2276-5 amendments, staff, 2 pp

M – HB 2276-6 amendments, staff, 1 p