

HOUSE COMMITTEE ON JUDICIARY

March 27, 2003 Hearing Room 357
1:00 pm Tapes 108- 109

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 Taylor, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2784 Public Hearing and Work Session**
 HB 2725 Public Hearing
 HB 2727 Public Hearing and Work Session
 HB 2729 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 108, A		
004	Chair Williams	Opens meeting at 1:22 pm. Opens public hearing on HB 2784.
<u>HB 2784 PUBLIC HEARING</u>		
006	John Mabrey	House District 59. Supports HB 2784 which authorizes service district that previously provided enhanced law enforcement services by contract with sheriff of county to provide law enforcement services, and introduces Dennis Luke.
008	Dennis Luke	Deschutes County Commissioner. Testifies in support of HB 2784 and submits testimony (EXHIBIT A). Explains background on HB 2784 which clarifies legislative intent of previous bills. Discusses problems with Black Butte Service District police services. Explains three possible actions: <ul style="list-style-type: none">• Do nothing• Have reformation election for Black Butte service district• Pass HB 2784 to establish legislative intent HB 2784 would affect the Black Butte and Clackamas County special districts. Says the bill is supported by Deschutes County Sheriff, Black Butte Chief of Police, Black Butte Home Owners Association, Deschutes County Board of Commissioners, former Senator Neil Bryant, and the Special Districts Association.
065	Bill Taylor	Committee Counsel. Refers to 2001 session when this bill was brought to the legislature. At the time Black Butte was created, the officers were not sworn.

075	Rep. Krummel	Asks about Clackamas County.
093	Luke	Responds that he was informed that a Clackamas County service district would be affected by the bill.
095	Chair Williams	Comments that Clackamas County has a planned community issue like Black Butte's situation.
098	Vice Chair Anderson	Supports the bill.
099	Staff	Submits testimony in support of HB 2784 from Rep. Tim Kropp (EXHIBIT B) and from Sen. Bev Clarno (EXHIBIT C) .
100	Chair Williams	Closes public hearing on HB 2784. Opens work session on HB 2784.

HB 2784 WORK SESSION

101 Rep. Anderson MOTION: Moves HB 2784 to the floor with a DO PASS recommendation.

VOTE: 7-0-2

EXCUSED: 2 - Jenson, Macpherson*

102 Chair Williams Hearing no objection, declares the motion CARRIED. REP. JOHN MABRY will lead discussion on the floor.

110 Chair Williams Closes work session on HB 2784. Opens public hearing on HB 2725.

HB 2725 PUBLIC HEARING

130	Bill Taylor	Committee Counsel. Explains HB 2725 which modifies crime of giving false information to police officer to include service of warrants.
132	Rep. Prozanski	Explains HB 2725 will fix a current statute regarding giving false information to a police officer to include when an officer is serving a warrant.
137	Rep. Anderson	Asks if the penalty is the same.
141	Rep. Prozanski	Answers, yes, and explains this goes further when a warrant is issued.
144	Rep. Barker	Explains it is only when they are arrested that this applies.
147	Chair Williams	Asks if there is a fiscal impact on this statement.
150	Rep. Prozanski	Answers there may be a fiscal because it will be a Class A misdemeanor, at local level.
160	Brad Berry	Oregon District Attorneys Association (ODAA). Testifies in support of HB 2725. Gives examples of false identification being presented to officers.
206	Kelly Skye	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2725. Explains there will be constitutional implications.
277	Chair Williams	Asks about intent of the bill to apply to a situation where someone has a known warrant.
292	Rep. Prozanski	Replies the intent is to address the issue of "knowingly uses a false name at the time an officer is serving a warrant."
340	Berry	Comments on burden of proof. The state would have to prove that false information has been given knowingly to avoid service of the warrant.
379	Rep. Shetterly	Gives example and discusses service of warrant. Asks for clarification of "serving a warrant."
415	Rep. Prozanski	Explains that if they admit giving a false name because there was a warrant out for their arrest, then they would be captured under the provisions of HB 2725.

051	Vice Chair Ackerman	States search warrants are directed to premises usually, not persons. Asks when serving a search warrant of premises, what if those occupants give false names.
060	Berry	Replies that he would say not, except if an individual was found in a drug house and if the person identified himself fraudulently to avoid outstanding warrant, HB 2725 could be enforced. There would be the problem of proof from subsequent statements. Describes avoiding service of an outstanding warrant. Prosecution must prove through subsequent statements of the individual.
072	Vice Chair Ackerman	Discusses how probable cause to arrest and using a false name to avoid arrest is not material.
085	Rep. Barker	Refers to citations the officer has to explain that if a false name is used it is a violation of law..
090	Rep. Shetterly	Says the language may not be what you want.
095	Chair Williams	Asks about misleading officers.
106	Rep. Prozanski	States he has never has seen a third party cited for giving false information to an officer.
119	Rep. Shetterly	Discusses the language.
127	Chair Williams	Asks Rep. Prozanski to work with Mr. Barry and Ms. Skye to focus on the bill for clarification.
130	Skye	Discusses purposes of serving a warrant. Does not see it as a problem of proof, sees it as a problem if that person is guilty of a crime.
158	Rep. Shetterly	Refers to arrest warrant statutes and search warrant statutes.
173	Rep. Prozanski	Says his intention was not to include search warrants.
181	Taylor	Asks for guidance on the language.
185	Chair Williams	Closes public hearing on HB 2725. Opens public hearing on HB 2727.

HB 2727 PUBLIC HEARING

205	Rep. Prozanski	House District 8. Describes HB 2727 which requires property owner to give notice to law enforcement agency before entering contaminated property. Describes what has been found on property where the owner- occupants are operating methamphetamine labs.
246	Rep Krummel	Asks what kind of exposure would this present to law enforcement. For example, if the police allow parties onto contaminated property, do parties have legal recourse?
278	Rep. Barker	Comments on the potential to destroy evidence by property owners.
282	Rep. Prozanski	Comments that law enforcement wants the opportunity to know if the owner or an individual is entering the property and to be able to go to the location while the individual may be there.
324	Vice Chair Ackerman	Asks about line 14, b and c.
350	Rep. Prozanski	Replies that the owner would be required to notify the agency prior to entering the premises.
388	Mark Landauer	City of Portland, Government Relations. Testifies in support of HB 2727. Refers to 2001 Session when the bill was first introduced.
398	Chair Williams	Closes public hearing on HB 2727. Opens work session on HB 2727.

HB 2727 WORK SESSION

399	Rep. Barker	MOTION: Moves HB 2727 to the floor with a DO PASS
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recommendation.

VOTE: 8-0-1

EXCUSED: 1 – Jenson

Hearing no objection, declares the motion CARRIED.

REP. PROZANSKI will lead discussion on the floor.

389 Chair Williams

TAPE 108, B

399 Chair Williams

Closes work session on HB 2727 and opens public hearing on HB 2729.

HB 2729 PUBLIC HEARING

001 Rep. Prozanski

House District 8. Explains HB 2729 which removes requirement that name and address of person to whom court should disburse payments appear in money judgment in criminal action. Testifies in support of HB 2729.

037 Bradd Swank

Special Counsel, State Court Administrator's Office. Discusses legal right for disbursement of restitution. Describes the person named in a judgment is who gets the restitution, therefore, a name and an address, not the victims, must be named. Says the bill must require the name and address of somebody to receive the restitution.

093 Rep. Shetterly

Asks who is the judgment creditor.

097 Swank

Replies the state is the judgment creditor in a criminal judgment. The state disburses to the person named in the judgment.

100 Taylor

Asks if the victim does not want his name used, must they give their name and address.

109 Swank

Explains who writes the judgments.

120 Taylor

Gives example of not giving name.

125 Swank

Reports in about one-third of the counties, the judgments are written by the district attorneys, about one-third the court makes arrangements, and about one-third are uniform criminal judgment by computer.

147 Rep. Prozanski

Asks to work with Mr. Swank and Counsel Taylor to fix this bill.

165 Rep. Anderson

Asks if the name or address of the judgment could be another state.

170 Chair Williams

Closes public hearing on HB 2729. Reopens work session on HB 2784.

HB 2784 WORK SESSION

150 Rep. Williams

***MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. MACPHERSON to BE RECORDED as voting AYE on the "the motion to move HB 2784 to the floor with a Do Pass recommendation."**

VOTE: 8-0-1

EXCUSED: 1 – Jenson

Hearing no objection, declares the motion CARRIED.

151 Chair Williams

152 Chair Williams

Closes work session on HB 2784. Adjourns meeting at 2:30 pm.

EXHIBIT SUMMARY

A - HB 2784, written testimony, Dennis Luke, 1 p

B – HB 2784, written testimony of Rep. Tim Knopp submitted by staff, 1 p

C – HB 2784, written testimony of Sen. Bev. Clarno submitted by staff, 1 p