

HOUSE COMMITTEE ON JUDICIARY

April 02, 2003 Hearing Room 357

1:00 p.m. Tapes 118 - 120

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

MEMBER EXCUSED: Rep. Gordon Anderson, Vice-Chair

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

MEASURE/ISSUES HEARD: **HB 3341 Public Hearing**
 HB 2581 Public Hearing
 HB 2694 Public Hearing
 HB 2066 Work Session
 HB 2150 Work Session
 HB 2155 Work Session
 HB 2156 Work Session
 HB 2342 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 118, A		
004	Chair Williams	Calls the meeting to order at 1:10 p.m. Opens a public hearing on HB 3341.
<u>HB 3341 PUBLIC HEARING</u>		
008	Kathleen Haley	Board of Medical Examiners. Submits testimony and testifies in support of HB 3341 which authorizes Board of Medical Examiners for State of Oregon to establish professional liability fund for certain medical professionals licensed under ORS chapter 677 (EXHIBIT A).
054	Chair Williams	Closes the public hearing on HB 3341 and opens a public hearing on HB 2581.
<u>HB 2581 PUBLIC HEARING</u>		
070	Rep. Bob Ackerman	House District 13. Submits testimony and testifies in support of HB 2581 which allows governing body to commence proceeding in circuit court to determine regularity and legality of certain actions of governing body (EXHIBITS B-D).
157	Jim Torrey	Mayor, City of Eugene. Submits testimony and testifies in support of HB 2581 (EXHIBIT E).
195	Jason Huser	City of Eugene. Testifies in support of HB 2581.
206	Rep. Prozanski	Asks what would happen if a defendant raised a constitutional

		issue.
		Discusses the -2 amendments (Exhibit C).
225	Rep. Ackerman	Says that he is covering the constitutional issue with those amendments.
245	Rep. Jenson	Asks about time frame of the process.
257	Rep. Ackerman	Answers that it should take the usual time for litigation.
268	Rep. Jenson	Asks about the new language in Section 1, subsection 2.
289	Rep. Ackerman	Responds that the governing bodies and other municipalities want this tool.
310	Rep. Shetterly	Discusses language of statute. Wonders about the issue of claim preclusion impacts.
400	Rep. Ackerman	Says that counsel for the constitutional body should raise every issue possible to avoid argument at a later time.
430	Torrey	Concludes that they are trying to make the process fair.
TAPE 119, A		
021	Andrea Fogue	League of Oregon Cities. Testifies in support of HB 2581.
037	Linda Lynch	Lane Transit District. Submits testimony and testifies in support of HB 2581 (EXHIBIT F).
047	Andrea Myer	American Civil Liberties Union (ACLU). Testifies on HB 2581. Says she is concerned about constitutional questions being raised.
085	Chair Williams	Discusses bill. Closes the public hearing on HB 2581 and opens a public hearing on HB 2694.
<u>HB 2694 PUBLIC HEARING</u>		
092	Ron Moore	Pacific Northwest Hardware and Implement Association. Testifies in support of HB 2694 which prescribes supplier's obligations toward retailer of farm implements. Discusses amendments that they have.
101	Verl Scheibe	Fischer Implement Groups. Testifies in support of HB 2694.
190	Bill Joseph	Committee Counsel. Asks Mr. Moore if the bill is starting from a consensus point of view.
201	Rep. Shetterly	Asks about a problem with the -1 amendments (EXHIBIT G).
241	Chair Williams	Discusses the bill and the -1 amendments. Says that they are leaving a stray line in the bill.
294	Chair Williams	Recommends that they combine the -1 amendments with the other amendments. Closes the public hearing on HB 2694 and opens a work session on HB 2066.
<u>HB 2066 WORK SESSION</u>		
328	Chair Williams	States that there are many amendments to this bill.
347	Bradd Swank	Special Counsel, Oregon Judicial Department. Discusses the -15 and the -16 amendments (EXHIBITS H & I).
417	Rep. Prozanski	Asks for clarification of the amendments.
438	Rep. Barker	Asks Mr. Swank about "oath of office" in the -15 amendments.
TAPE 118, B		
006	Swank	Answers that this bill was introduced to solve the problems of issues surrounding the oath of office.
018	Chair Williams	Asks how the oath definition differs in this bill.
022	Swank	Explains oath of office changes.
109	Chair Williams	MOTION: Moves to ADOPT HB 2066-15 amendments dated 04/02/03.
		VOTE: 7-0-2
		EXCUSED: 2 - Anderson, Shetterly
111	Chair Williams	Hearing no objection, declares the motion CARRIED.

113	Chair Williams	MOTION: Moves to ADOPT HB 2066-16 amendments dated 04/02/03. VOTE: 7-0-2 EXCUSED: 2 - Anderson, Shetterly
115	Chair Williams	Hearing no objection, declares the motion CARRIED.
117	Chair Williams	Closes the work session on HB 2066 and opens a work session on HB 2150.
<u>HB 2150 WORK SESSION</u>		
121	Bill Joseph	Committee Counsel. Introduces HB 2150 which specifies that copy of small estate affidavit must be mailed or delivered to the Estate Administration Unit of Department of Human Services.
139	Rick Mills	Department of Human Services (DHS). Discusses the -1 amendments (EXHIBIT J).
157	Rep. Macpherson	Says he has some concerns.
172	Mills	Explains current law and discussion of public hearing on bill.
219	Chair Williams	Asks about certifying of filing of affidavit.
221	Mills	Discusses filing of small estate affidavit.
251	Rep. Shetterly	Recalls discussion of DHS being able to certify their own copies of affidavits.
290	Chair Williams	Talks about bill.
304	Mills	States that this bill is trying to reduce some of DHS's administrative costs in pursuing their claims.
338	Rep. Macpherson	MOTION: Moves to ADOPT HB 2150-1 amendments dated 03/19/03. VOTE: 8-0-1 EXCUSED: 1 - Anderson
403	Chair Williams	Hearing no objection, declares the motion CARRIED.
407	Rep. Macpherson	MOTION: Moves HB 2150 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 8-0-1 EXCUSED: 1 - Anderson
410	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. MACPHERSON will lead discussion on the floor.
440	Chair Williams	Closes the work session on HB 2150 and opens a work session on HB 2155.

HB 2155 WORK SESSION

TAPE 119, B

005	Bill Joseph	Committee Counsel. Introduces HB 2155 which authorizes Department of Human Services to bring action under certain conditions to recover amount of assistance paid. Discusses -1 amendments (EXHIBIT K).
033	Rick Mills	Department of Human Services (DHS). Explains bill and -1 amendments (Exhibit K).
053	Chair Williams	Discusses his concerns regarding how one manages risks.
069	Vice Chair Anderson	Says his concern is with the tort claim notice.
077	Rep. Shetterly	Mentions that the Elder Law Section of the Oregon State Bar addressed some issues that are not taken care of in the -1 amendments.
080	Chair Williams	Closes the work session on HB 2155 and opens a work session on HB 2156.

HB 2156 WORK SESSION

090	Bill Joseph	Committee Counsel. Introduces HB 2156 which authorizes Department of Human Services to present for recordation request for notice of transaction in deed and mortgage records of county
-----	-------------	---

		in which public assistance recipient holds interest in real property.
111	Rick Mills	Department of Human Services (DHS). Discusses the -2 amendments (EXHIBIT L).
123	Rep. Shetterly	Discusses concerns with bill.
138	Mills	Responds to concerns.
167	Rep. Jenson	Shares his concerns about bill.
189	Chair Williams	Says that the bill needs work to move forward.
216	Mills	States that he will try to work with the Elder Law Section of the Oregon State Bar.
232	Vice-Chair Ackerman	Makes suggestions.
252	Rep. Macpherson	Expresses what the agency is trying to accomplish.
275	Chair Williams	Closes the work session on HB 2156 and opens a work session on HB 2342.

HB 2342 WORK SESSION

279	Bill Joseph	Committee Counsel. Introduces HB 2342 which allows claim to be made against estate of decedent at any time after personal representative is appointed. Discusses the -1 amendments (EXHIBIT M).
290	Rick Mills	Department of Human Services (DHS). Talks about the -1 amendments (Exhibit M).
304	Chair Williams	Recalls discussion of bill.
311	Mills	Explains that there is a provision in the bill submitted by the Department of Justice.
345	Vice-Chair Ackerman	Asks how long a person has to file a claim on page 1, section 1.
330	Mills	Describes the process.
408	Rep. Shetterly	Comments that he is okay with page 1, section 1.
448	Chair Williams	Says that the -1 amendments remove section 2 of the bill.
453	Vice-Chair Ackerman	Says he is satisfied with the statute of limitations language.

TAPE 120, A

028	Chair Williams	Asks what the policy purpose is for the 2-year time period.
030	Mills	Responds to why they changed the time period.
040	Chair Williams	Comments on the time period change in the bill.
057	Rep. Prozanski	Volunteers to work on the bill with the DHS.
063	Rep. Shetterly	Recommends that the Estate Planning or Elder Law Section also be involved in working on this bill.
127	Chair Williams	Discusses future meetings. Closes the work session on HB 2342 and adjourns the meeting at 3:05 p.m.

EXHIBIT SUMMARY

- A – HB 3341, written testimony, submitted by Kathleen Haley, 1 pg.**
- B – HB 2581, -1 amendments, submitted by staff, dated 3/28/03, 1 pg.**
- C – HB 2581, -2 amendments, submitted by staff, dated 3/28/03, 1 pg.**
- D – HB 2581, written testimony, submitted by Rep. Ackerman, 4 pgs.**
- E – HB 2581, written testimony, submitted by Mayor Jim Torrey, Eugene, 2 pgs.**
- F – HB 2581, written testimony, submitted by Linda Lynch, 1 pg.**
- G – HB 2694, -1 amendments, submitted by Rep. Zauner, dated 3/21/03, 5 pgs.**

H – HB 2066, -15 amendments, submitted by staff, dated 4/2/03, 3 pgs.
I – HB 2066, -16 amendments, submitted by staff, dated 4/2/03, 2 pgs.
J – HB 2150, -1 amendments, submitted by staff, dated 3/19/03, 1 pg.
K – HB 2155, -1 amendments, submitted by staff, dated 3/18/03, 1 pg.
L – HB 2156, -2 amendments, submitted by staff, dated 3/25/03, 2 pgs.
M – HB 2342, -1 amendments, submitted by staff, dated 3/19/03, 1 pg.