

HOUSE COMMITTEE ON JUDICIARY

April 08, 2003 Hearing Room 357
1:00 pm Tapes 127 - 130

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 Taylor, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD:

- HB 3363 Public Hearing and Work Session
- HB 2390 Public Hearing
- HB 2094 Public Hearing
- HB 2620 Public Hearing
- HB 2821 Public Hearing and Work Session
- HB 3167 Public Hearing
- HB 3388 Public Hearing
- HB 2811 Public Hearing and Work Session
- HB 3339 Public Hearing and Work Session
- HB 2733 Public Hearing
- HB 2736 Public Hearing and Work Session
- HB 2034 Work Session
- HB 2082 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 127, A		
005	Chair Williams	Opens meeting at 1:08 pm. Opens public hearing on HB 3363.
<u>HB 3363 PUBLIC HEARING</u>		
035	Nancy Miller	State Court Administrator's Office. Testifies in support of HB 3363 which allows certain persons to file petition seeking participation in drug court program, and submits testimony (EXHIBIT A) . Explains the entire bill is now the -3 amendments (EXHIBIT B) .
072	Hon. Deanne Darling	Judge, Clackamas County Circuit Court. Testifies in support of HB 3363. Explains how the drug courts operate.
090	Vice Chair Ackerman	Discusses the -3 amendments. Asks how the criterion to get into a drug program is decided.
095	Judge Darling	Responds that there is a handbook laid out by the district attorney, court, defense, and treatment providers.
121	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 3363.
125	Stephanie Tuttle	Oregon District Attorneys Association. Testifies in opposition to

		HB 3363 as it was originally written, but supports the -3 amendments.
146	Chair Williams	Closes public hearing on HB 3363. Opens work session on HB 3363.
<u>HB 3363 WORK SESSION</u>		
148	Rep. Shetterly	MOTION: Moves to ADOPT HB 3363-3 amendments dated 4/7/03.
		VOTE: 9-0
149	Chair Williams	Hearing no objection, declares the motion CARRIED.
150	Rep. Shetterly	MOTION: Moves HB 3363 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
151	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. BARKER will lead discussion on the floor.
152	Rep. Jenson	Asks where the cost effectiveness information is.
154	Miller	Replies that there were two evaluations done on the drug court program. The focus was on the outcomes of the program. Offers to get information on cost effectiveness for Rep. Jenson
170	Chair Williams	Closes work session on HB 3363. Opens public hearing on HB 2390.
<u>HB 2390 PUBLIC HEARING</u>		
230	Rep. Mark Hass	House District 27. Gives background on HB 2390 which prohibits all restrictions in non-competition agreements in broadcasting industry other than 30-day restriction on employee's service in broadcasting industry after termination of employment, and relates reasons for the bill. Explains personal experience in broadcasting. Testifies in support of HB 2390 and submits testimony (EXHIBIT C).
319	Jeff Scovel	Broadcasting industry. Testifies in support of HB 2390 and submits written testimony (EXHIBIT D). Gives personal experience.
TAPE 128, A		
003	Scovel	Continues presentation on reasons why HB 2390 should pass.
020	John Williams	Portland Radio Personality. Gives personal experience in broadcasting. Testifies in support of HB 2390 and submits testimony (EXHIBIT E).
043	Williams	Continues explaining non-competition agreements in broadcasting.
058	Nicholas Fish	Attorney, Meyer and Wyse. States his practice emphasizes labor employment law. Testifies in support of HB 2390 and submits testimony (EXHIBIT F).
150	Rep. Macpherson	Discusses the type of agreements described by Mr. Fish. Asks if there is a legitimate interest within the industry for the branding of personalities for non-competition agreements.
155	Fish	Explains the practice of "branding" in the broadcasting industry.
198	Chair Williams	Comments on the two-year non-compete within a 125-mile radius.
292	Fish	Explains how cases proceed for employees with limited resources.
301	Rep. Krummel	Asks about national talent. Asks why the local broadcasters have the non-competition agreements and high-priced broadcasters do not.

316	Fish	Explains how highly compensated personalities have more leverage. Smaller markets with modest salaries do not have leverage to force an employer to back-off on these agreements. Explains other contractual provisions.
388	Scovel	Comments on two-year non-competes. Describes what banding together will do.
400	Rep. Shetterly	Asks what is unique about broadcasting industry.
425	Fish	Gives example of no compete incident, highly compensated.
TAPE 127, B		
051	Sen. Rick Metsger	Senate District 26. Comments there is a major difference in broadcasting within Federal Communications Commission. Supports HB 2390.
060	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Testifies in support of HB 2390 and submits testimony and the - 1 amendments (EXHIBITS G & H) .
090	Rep. Prozanski	Asks if there is opposition.
092	Gardner	Replies it is a friendly amendment.
100	Dave Fiskum	Oregon Association of Broadcasters. Opposes HB 2390. Introduces Ron Carter, David Lippoff. Mike Cheney.
178	Ron Carter	KWJJ. Testifies in opposition of HB 2390 and submits testimony (EXHIBIT I) . Explains the huge investments made to promote airtime shows.
273	David Lippoff	KOIN. Gives background in broadcasting. Testifies in opposition of HB 2390 and submits testimony (EXHIBIT J) .
377	Mike Cheney	Manager of Bend radio stations. Testifies in opposition of HB 2390 and submits testimony (EXHIBIT K) .
TAPE 128, B		
020	Cheney	Continues presentation of smaller markets in broadcasting.
050	Rep. Barker	Comments about non-competes.
093	Vice Chair Anderson	Asks if it is the person that is kept from competing, or is it the voice, the face, or the branding.
098	Cheney	Answers the contracts are with individuals.
127	Vice Chair Ackerman	Asks if he supports the part of the bill where the employee is laid off.
136	Cheney	Discusses "laid off" versus ending an employment arrangement.
145	Rep. Prozanski	Asks if any employees refuse to sign contracts based on the non-compete agreement presented to them.
163	Carter	Replies they do not get the protection of the contract if they do not sign them; he does not believe there is a standard.
171	Cheney	States the non-compete clauses are for six months to one year.
180	Rep. Prozanski	Gives example of professional athletes.
200	Carter	Answers that when the professionals change they go to another market place. This is a different kind of thing.
218	Rep. Jenson	Asks what is a reasonable time for non-competes.
220	Lippoff	Answers reasonable non-competes are six months to one year.
231	Rep. Jenson	Asks about two-year non-competes.
242	Fiskum	Explains two-year agreements are negotiations between employee and employer.
249	Staff	Submits testimony in support of HB 2390 by Wendi Weiss for the American Federation of Television and Radio Artists (EXHIBIT L) , and supporting testimony by Ron Pivo (EXHIBIT M) .
250	Chair Williams	Closes public hearing on HB 2390. Opens public hearing on HB 2094.

HB 2094 PUBLIC HEARING

282 Pete Shepherd

Deputy, Attorney General, Department of Justice. Explains HB 2094 requires tobacco product manufacturers to report certain information to Attorney General. Explains this bill needs further work and there will be policy choices for the committee.

300 Chair Williams

Closes public hearing on HB 2094. Opens public hearing on HB 2620.

HB 2620 PUBLIC HEARING

321 Susan Russell

Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2620 which provides that third offense of driving while under the influence of intoxicants is felony under specified circumstances.

350 Staff

Submits testimony (**EXHIBIT N**) from Governor's Advisory Committee on DUII.

355 Chair Williams

Closes public hearing on HB 2620. Opens public hearing on HB 2821.

HB 2821 PUBLIC HEARING

391 Bill Taylor

Committee Counsel. Explains HB 2821 which clarifies authority of sheriff to use such force as is necessary to enter into building or enclosure and take personal property when court has ordered sheriff to take property into custody at specific premises.

400 Rob Bovett

Assistant County Counsel, Lincoln County. Testifies in support of HB 2821 and submits testimony (**EXHIBIT O**)

425 Marshall Ross

Senior Deputy, Multnomah County. Testifies in support of HB 2821 and submits testimony (**EXHIBIT P**).

TAPE 129, A

048 Brian Wallace

Civil Deputy, Polk County. Testifies in support of HB 2821 and submits testimony (**EXHIBIT Q**).

149 John Powell

Oregon State Sheriffs Association. Describes the -1 amendments (**EXHIBIT R**).

154 Chair Williams

Closes public hearing on HB 2821. Opens work session on HB 2821.

HB 2821 WORK SESSION

155 Rep. Prozanski

MOTION: Moves to ADOPT HB 2821-1 amendments dated 4/9/03.

VOTE: 7-0-2

EXCUSED: 2 - Barker, Macpherson

156 Chair Williams

Hearing no objection, declares the motion CARRIED.

157 Rep. Prozanski

MOTION: Moves HB 2821 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 7-0-2

EXCUSED: 2 - Barker, Macpherson

158 Chair Williams

Hearing no objection, declares the motion CARRIED.

REP. ANDERSON will lead discussion on the floor.

159 Chair Williams

Closes work session on HB 2821. Opens public hearing on HB 3167.

HB 3167 PUBLIC HEARING

210 Chair Williams

Closes public hearing on HB 3167. Opens public hearing on HB 3388.

HB 3388 PUBLIC HEARING

215 Jim Main

Sheriff Douglas County. Testifies in support of HB 3388 which allows city or county to charge booking fee to person committed to local correctional facility, and submits testimony (**EXHIBIT S**).

220 John Powell Oregon State Sheriffs Association. Testifies in support of HB 3388.

233 Rep. Prozanski Asks if these fees will be applied to everyone, or just those who do not have the ability to pay.

240 Main Describes charging of fees.

245 Vice Chair Ackerman Asks how much the county would gross.

382 Main Replies that booking fees would bring about 30 percent collection rate. Possibly \$40,000 a year to go into other programs.

TAPE 130, A

050 Susan Russell Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 3388.

075 Chair Williams Closes public hearing on HB 3388. Recesses meeting at 3:30 pm. To reconvene at 5:30 pm.

090 Chair Williams Reconvenes the meeting at 5:37 p.m. Opens a public hearing on HB 2811.

HB 2811 PUBLIC HEARING

111 Kelly Peterson Humane Society of United States. Testifies in support of HB 2811 which expands definition of minimum care with regard to non-ambulatory livestock animals for purposes of certain criminal statutes. Discusses work group efforts that lead to this legislation. Clarifies the intent of the bill on how a non-ambulatory animal should be handled.

147 Glen Stonebrink Oregon Cattleman’s Association. Testifies in support of HB 2811 and the -1 amendments (**EXHIBIT T**).

155 Rep. Shetterly Signifies that the -1 amendments delete “veterinary” and insert “ongoing.”

168 Marcia Keith Oregon Veterinary Medical Association. Submits testimony and testifies in support of HB 2811 and the -1 amendments (**EXHIBIT U**).

172 Bruce Anderson Eugene Livestock Auction. Supports the -1 amendments.

184 Rep. Shetterly Thanks Ms. Peterson and Mr. Stonebrink for their efforts in getting this legislation to this point.

200 Lt. Randy Covey Support Enforcement for Humane Society. Testifies in support of HB 2811 and -1 amendments.

204 Chair Williams Closes public hearing on HB 2811 and opens work session.

HB 2811 WORK SESSION

205 Rep. Shetterly **MOTION: Moves to ADOPT HB 2811-1 amendments dated 3/6/03.**
VOTE: 9-0

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

207 Rep. Shetterly **MOTION: Moves HB 2811 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 9-0

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

209 Chair Williams Closes the work session on HB 2811 and opens a public hearing on HB 3339.

HB 3339 PUBLIC HEARING

240 Kelly Peterson Humane Society of United States. Testifies in support of HB 3339 which creates crime of trading in non-ambulatory livestock. Discusses work group efforts that lead to this legislation.

245	Glen Stonebrink	Oregon Cattleman’s Association. Testifies in support of HB 3339 and the -1 amendments (EXHIBIT V). Discusses why “knowingly delivers” is of importance in this legislation.
265	Marcia Keith	Oregon Veterinary Medical Association. Submits testimony and testifies in support of HB 3339 (EXHIBIT W)
279	Bruce Anderson	Eugene Livestock Auction. Supports HB 3339.
280	Lt. Randy Covey	Support Enforcement for Humane Society. Supports HB 3339.
305	Rep. Shetterly	Commends panel on work done to produce this legislation.
344	Rep. Prozanski	Asks if “pot shots” can be taken to load animals.
351	Stonebrink	Replies he is not sure, but thinks that would bruise the animal and diminish the quality of the meat.
360	Chair Williams	Asks if that is a cattle prod.
365	Stonebrink	Responds affirmatively.
370	Chair Williams	Closes public hearing on HB 3339 and opens a work session on HB 3339.

HB 3339 WORK SESSION

371	Rep. Shetterly	MOTION: Moves to ADOPT HB 3339-1 amendments dated 3/24/03.
372		VOTE: 9-0
373	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.
374	Rep. Shetterly	MOTION: Moves HB 3339 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
376	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. SHETTERLY will lead discussion on the floor.
378	Chair Williams	Closes the work session on HB 3339 and opens a public hearing on HB 2733.

HB 2733 PUBLIC HEARING

410	Rep. Floyd Prozanski	House District 8. Discusses the reasons for introducing HB 2733 which reorganizes provisions relating to venue in violation cases.
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TAPE 129, B

028	Vice-Chair Ackerman	Asks for clarification on the geographic lines in Lane County.
035	Rep. Prozanski	Replies he isn’t sure where the geographic lines are drawn, but explains where particular courts might be located in the county.
040	Vice Chair Ackerman	Says the justice courts geographic limits are prescribed by ordinance less than what the county is.
047	Rep. Prozanski	Comments that is true, the same thing is in Florence Justice Court and Oakridge Justice Court; all are Justice of Peace courts within Lane County and have geographic location.
051	Rep. Shetterly	Asks if this bill expands the jurisdictional limit of the justice court in a particular county.
060	Vice-Chair Ackerman	Asks for clarification on the intent of the bill.
069	Rep. Prozanski	Explains the intent of HB 2733 is not to change what is already geographically marked but to make clear the options are limited to what was previously based in the statute and making certain municipal courts’ jurisdiction is limited to their city limits. Describes the jurisdictional limitations within the legislation.
074	Rep. Anderson	Asks for specific jurisdiction in Coburg and Harrisburg.
080	Rep. Prozanski	Explains which court might have jurisdiction based on the current statutes. Says this does not limit the municipal court.

085	Chair Williams	Summarizes the intent of the bill.
095	Rep. Prozanski	Agrees with his summation. Explains the only times the municipal court would have jurisdiction.
119	Chair Williams	Asks if this new wording would avoid “poaching” by a city policeman.
129	Rep. Krummel	Wonders if an interstate highway would limit the jurisdiction of city officials.
135	Rep. Prozanski	Explains who would have jurisdiction if an interstate highway passed within a city.
153	Rep. Macpherson	Asks for clarification concerning where a violation would be heard.
160	Rep. Prozanski	Clarifies where the violation could be heard by giving an example.
179	Bill Taylor	Committee Counsel. Notes that the bill is difficult to comprehend and tries to clarify the legislation by using an example.
195	Rep. Macpherson	Appreciates the clarification.
201	Carl Myers	Oregon Municipal Judges Association. Adds further clarification to the legislation by using an example of being stopped within the city limits of Salem, but in Polk County. Says this bill does not change overlapping jurisdiction.
225	Chair Williams	Asks if that was Rep. Prozanski’s intent in this bill.
231	Rep. Prozanski	Agrees.
234	Rep. Barker	Suggests an amendment that municipal courts have jurisdiction only within city limits.
239	Chair Williams	Comments that “poaching” should be avoided.
245	Rep. Shetterly	Wonders about amending Chapter 221.
294	Myers	Still need language in Chapter 153 which has been misinterpreted. Feels venue for handling a case can only be if the violation occurred within the boundaries of that jurisdiction. Says Chapter 221 could be amended, but 153 has to be, as well.
300	Taylor	Suggests amendments.
303	Rep. Prozanski	Suggests a way of amending the legislation.
305	Chair Williams	Agrees that the legislation should be less complicated.
307	Chair Williams	Closes the public hearing on HB 2733. Opens a public hearing on HB 2736.

HB 2736 PUBLIC HEARING

350	Rep. Floyd Prozanski	House District 8. Introduces and testifies in support of HB 2736 which creates crime of interfering with firefighter or emergency medical technician. Describes situations which lead to introduction of this bill.
393	Rep. Jenson	Wonders if other crimes could be prosecuted when interfering with a firefighter.
404	Rep. Prozanski	Says it depends on what actually happens on the scene and gives examples of various violations that could occur.

TAPE 130, B

025	Rep. Jenson	Asks about more serious crimes that could be prosecuted.
030	Rep. Barker	Asks for clarification on the intent of the bill.
035	Rep. Prozanski	Describes intent is to give them the protection they need. Before citing an individual, that notice would be given. The individual would have to have the knowledge they are interfering with the person doing their job.
040	Rep. Barker	Asks what would be done in a particular situation in Portland.
045	Rep. Prozanski	Explains how law enforcement would handle this situation.

055	Vice-Chair Anderson	Asks if volunteers would be covered as well.
058	Rep. Prozanski	Answers no, and clarifies who would be covered by this legislation.
072	Rep. Prozanski	Clarifies that this legislation is for a firefighter or emergency medical technician.
069	Chair Williams	Asks if it would include a volunteer firefighter.
072	Vice Chair Anderson	Wonders if it covers volunteer police.
076	Rep. Prozanski	Says that is covered under volunteer police officer.
090	Chair Williams	Asks if there might be a fiscal involved in creating a new crime.
093	Rep. Prozanski	Feels it will not be used that often to impact the state.
106	Chair Williams	Closes the public hearing on HB 2736 and opens a work session on HB 2736.

HB 2736 WORK SESSION

107	Rep. Prozanski	MOTION: Moves HB 2736 to the floor with a DO PASS recommendation.
		VOTE: 9-0
108	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.
110	Chair Williams	Closes work session on HB 2736. Opens work session on HB 2034.

HB 2034 WORK SESSION

112	Bill Taylor	Committee Counsel. Explains -6 amendments to HB 2034 which modifies definition of iodine matrix (EXHIBIT X).
135	Chair Williams	Addresses concerns about minors, which was withdrawn, and the idea of putting the items behind the counter.
140	Taylor	Describes how that was withdrawn.
145	Chair Williams	Refers to previous issues by veterinarians which have been resolved.
150	Marcia Keith	Oregon Veterinary Medical Association. Testifies in support of the -6 amendments.
171	Vice-Chair Anderson	Asks for clarification on the retailers' issue of not wanting to lock up this medication.
185	Chair Williams	Describes how the amendments satisfy previous concerns of retailers.
189	Rep. Jenson	Asks for clarification on which parts of the bill have been deleted.
192	Rep. Macpherson	MOTION: Moves to ADOPT HB 2034-6 amendments dated 4/1/03.
		VOTE: 9-0
195	Chair Williams	Hearing no objection, declares the motion CARRIED.
196	Rep. Macpherson	MOTION: Moves HB 2034 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
197	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. MACPHERSON will lead discussion on the floor.
199	Chair Williams	Closes work session on HB 2034. Opens a work session on HB 2082.

HB 2082 WORK SESSION

235	Jim McCloud	Manager for Quality Assurance, Office of Mental Health & Addiction Services. Testifies in opposition to HB 2082 which allows investigator in civil commitment proceeding access to Law Enforcement Data System and submits testimony
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260	McCloud	(EXHIBIT Y). Gives specific reasons for his opposition.
266	Chair Williams	Testifies in support of the -1 amendments (EXHIBIT Z) . Clarifies when the -1 amendments are in effect, but is not sure that these will be the only amendments to the bill.
280	Rep. Jenson	Expresses his opposition to HB 2082. States there is the issue of protecting the mentally ill.
290	Staff	Submits written testimony by Philip Chadsey in support of HB 2082 for National Association for the Mentally Ill (NAMI) (EXHIBIT AA) .
300	Chair Williams	Discusses the reception of previous legislation to this effect.
302	Chair Williams	Closes the work session on HB 2082 and adjourns the meeting at 6:52 p.m.

EXHIBIT SUMMARY

- A – HB 3363, written testimony, Nancy Miller, 4 pp**
- B – HB 3363-3 amendments, staff, 2 pp**
- C – HB 2390, written testimony, Rep. Mark Hass, (notebook)**
- D – HB 2390, written testimony, Jeff Scovel, 1 p**
- E – HB 2390, written testimony, John Williams, 1 p**
- F - HB 2390, written testimony, Nicholas Fish, 6 pp**
- G – HB 2390, written testimony, Dan Gardner, 2 pp**
- H – HB 2390-1 amendment, staff, 3 pp**
- I - HB 2390, written testimony, Ron Carter, 2 pp**
- J - HB 2390, written testimony, David Lippoff, 3 pp**
- K – HB 2390, written testimony, Mike Cheney, 2 pp**
- L – HB 2390, written testimony, Wendi Weiss, 4 pp**
- M – HB 2390, written testimony, Ron Pivo, 1 p**
- N – HB 2390, written testimony, Gretchen McKenzie, 1 p**
- O – HB 2821, written testimony, Rob Bovett, 1 p**
- P – HB 2821, written testimony, Marshall Ross, 1 p**
- Q – HB 2821, written testimony, Brian Wallace, 1 p**
- R – HB 2821-1 amendment, Staff, 1 p**
- S – HB 3388, written testimony, Jim Main, 1 p**
- T – HB 2811-1 amendment, staff, 1 p**
- U – HB 2811, written testimony, Marcia Keith, 1 p**
- V – HB 3339-1 amendment, staff, 1 p**
- W – HB 3339, written testimony, Marcia Keith, 1 p**
- X – HB 2034-6 amendment, staff, 1 p**
- Y – HB 2082, written testimony, Jim MacLeod, 2 pp**
- Z – HB 2082-1 amendment, staff, 1 p**
- AA – HB 2082, written testimony, Philip Chadsey (NAMI), p 1**