

HOUSE COMMITTEE ON JUDICIARY

May 15, 2003 Hearing Room 357

1:00 pm Tapes 191 - 192

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: SB 611A Public Hearing and Work Session
 SB 3630 Public Hearing
 HB 2498 Work Session
 HB 2494 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 191, A		
004	Chair Williams	Opens meeting at 1:14 pm. Opens public hearing on SB 611A.
<u>SB 611A PUBLIC HEARING</u>		
014	Cindy Robert	American Institute of Architects. Testifies in support of SB 611A which imposes pleading requirements for claim against architect, registered landscape architect, professional engineer or professional land surveyor if claim arises out of provision of services within course and scope of activities for which person is licensed, and submits testimony (EXHIBIT A).
064	John Baker	American Institute of Architects. Testifies in support of SB 611A. Says the liability remains the same. States SB 611A is only to sort out frivolous lawsuits.
069	Rep. Macpherson	Asks what are the costs to get extricated from a lawsuit.
079	Baker	Replies it costs \$15,000 to \$25,000 to get extricated from one of these litigations.
104	Robert	Discusses impact on statute of limitations. Refers to ORS 30.785 specific to liability of architects and engineers.
106	Chair Williams	Affirms that the bill is acceptable to all parties. Closes public hearing on SB 611A and opens A work session.
<u>SB 611A WORK SESSION</u>		
110	Rep. Macpherson	MOTION: Moves SB 611A to the floor with a DO PASS recommendation. VOTE: 8-0-1
111	Chair Williams	EXCUSED: 1 – Shetterly Hearing no objection, declares the motion CARRIED.

112	Chair Williams	REP. MACPHERSON will lead discussion on the floor. Closes work session on SB 611A. Opens public hearing on HB 3630.
<u>HB 3630 PUBLIC HEARING</u>		
223	Cory Streisinger	Department of Consumer and Business Services (DCBS). Testifies in support of HB 3630 and submits written testimony (EXHIBIT B) . Explains HB 3630 which provides that physician is agent of Department of Human Services under Oregon Tort Claims Act for purpose of medical services provided to person enrolled in Oregon Health Plan. Discusses the -3 amendments (EXHIBIT C) .
300	Streisinger	Continues presentation supporting HB 3630.
350	Vice Chair Anderson	Describes southern Oregon rural area that had 12 family practitioners but is now down to two family practitioners serving 75,000 people.
370	Streisinger	Describes 10 miles from an urban center is considered rural.
400	Rep. Jenson	Comments on different areas around population centers.
405	Karen Whitaker	Oregon Health Sciences University (OHSU). Testifies in support of HB 3630 and submits exhibit (EXHIBIT D) .
TAPE 192, A		
050	Whitaker	Describes map exhibits as rural areas. Describes metropolitan statistical areas. Defines ten miles from a center of population of 30,000 or more considered "rural." Continues presentation on rural areas.
126	Katherine Keene	President, SAIF Corporation. Testifies in support of HB 3630. Gives reasons for supporting the bill that provides the framework for the program.
147	Rep. Jenson	Asks about providers in Milton-Freewater and Walla Walla.
150	Whitaker	Answers Milton-Freewater is categorized as rural. Explains the definition has not made allowance for areas across the state line.
176	Vice Chair Anderson	Asks if this is for long term.
178	Keene	Answers that four years was the timeframe looked at. Funding may not be in this solution.
186	Rep. Krummel	Asks about recruiting rural physicians and families.
190	Whitaker	Explains the lifestyle in rural communities is attractive; however, education, and cultural access are sometimes lacking in drawing physicians and families.
194	Rep. Krummel	Asks about policy holders views.
200	Keene	Answers policy holders may not be aware of the specifics of the program proposals.
240	Rep. Krummel	Asks if reserves or other funding are needed, how would that be covered.
260	Keene	Describes how the bill would affect funding.
273	Rep. Jenson	Continues asking about Milton-Freewater and issues of physicians' insurance under this bill.
277	Keene	Replies that a "practice" is where the physician practices, not where the physician resides.
353	Scott Gallant	Oregon Medical Association (OMA). Testifies in support of HB 3630 and submits testimony (EXHIBIT E) . Gives reasons why HB 3630 is needed.
425	Bruce Bishop	Oregon Association of Hospitals and Health Systems (OAHHS). Testifies in support of HB 3630. Supports the -3 amendments. Says the indirect benefit to the hospitals will encourage rural doctors. Suggests amendments to show that hospitals should not

413	Jim Dorigan	be liable for physicians' conduct. Chief Executive Officer (CEO). Northwest Physicians Mutual Insurance Company. Testifies in support of HB 3630.
TAPE 191, B		
030	Dorigan	Continues presentation in support of HB 3630.
090	Vice Chair Ackerman	Asks about the -2 amendments and the funding mechanism of \$10 million from SAIF, how does that get paid back.
095	Gallant	Replies SAIF would still have credit for funds up to \$10 million the same as proposed in the -3 amendments.
100	Vice Chair Ackerman	Asks if SAIF has cleared this.
105	Gallant	Explains how they try to utilize the same authority in the -3 amendments by DCBS.
109	Rep. Jenson	Asks how many citizens are needed to support an Ob-Gyn doctor.
115	Gallant	Replies he does not have the statistics on that but can get it.
138	Rep. Jenson	Asks for those numbers and also the population needed to support a neurosurgeon.
164	Gallant	Comments on population and physician ratios.
203	Lisa Trussel	Associated Oregon Industries (AOI). Testifies in support of HB 3630-3 amendments. Says this bill will allow a temporary fix until a permanent solution is decided.
224	J.L. Wilson	National Federation of Independent Businesses (NFIB). Testifies in support of HB 3630-3 as a temporary solution.
240	Melanie Spiering	Manager, CNA Insurance. Testifies in partial support of HB 3630. States tort reform is needed in the medical liability field. Refers to Texas and Maine programs.
347	John DiLorenzo	Davis, Wright, Tremaine for Oregonians for Sound Economic Policy, Inc. Testifies in opposition to HB 3630 and submits testimony (EXHIBIT F) .
TAPE 192, B		
019	DiLorenzo	Continues presentation. Says today Judge Landau ruled SAIF cannot prohibit public inspection of documents.
077	Jack Munro	American Insurance Association. Testifies in opposition of HB 3630. Summarizes concerns of the bill as a temporary solution and delaying solution to the more fundamental problems. Suggests there are simpler ways of temporary aids.
112	Chair Williams	Asks for questions.
134	Rep. Anderson	Refers to SAIF and discusses the indiscretions of high salaries and contracts written with no public accounting and other issues. States that oversight should be included.
155	Chair Williams	Comments there are more areas of inquiry on this bill. HB 3630 will be back next week.
174	Vice Chair Ackerman	Comments on malpractice reform and that SAIF is the vehicle for an innovative approach to the medical malpractice problem.
177	Chair Williams	Closes public hearing on HB 3630. Recesses meeting for a few minutes.
179	Chair Williams	Reopens meeting and opens work session on HB 2498.
<u>HB 2498 WORK SESSION</u>		
180	Bill Joseph	Committee Counsel. Explains HB 2498 which sets rate of interest on judgments in civil actions relating to professional negligence of person licensed by Board of Medical Examiners or Oregon State Board of Nursing at lesser of five percent per-annum or three percent in excess of discount rate. Explains the HB 2498-3 amendments (EXHIBIT G) .

190	Rep. Ackerman	MOTION: Moves to ADOPT HB 2498-3 amendments dated 5/14/03.
		VOTE: 9-0
191	Chair Williams	Hearing no objection, declares the motion CARRIED.
192	Rep. Prozanski	Discusses having rates set less often on the Senate side.
193	Rep. Shetterly	Discusses paying off the judgment should also be considered.
194	Rep. Ackerman	MOTION: Moves HB 2498 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
195	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. ACKERMAN will lead discussion on the floor.
322	Chair Williams	Closes work session on HB 2498. Opens work session on HB 2494.
<u>HB 2494 WORK SESSION</u>		
324	Bill Joseph	Committee Counsel. Explains HB 2494 which requires disclosure of expert witnesses in civil actions. Explains the -2 amendments (EXHIBIT H).
330	Chair Williams	MOTION: Moves to ADOPT HB 2494-2 amendments dated 5/15/03.
331	Chair Williams	VOTE: 6-3-0
		AYE: 6 - Ackerman, Anderson, Barker, Krummel, Shetterly, Williams
		NAY: 3 - Jenson, Macpherson, Prozanski
332	Chair Williams	The motion CARRIES.
333	Chair Williams	MOTION: Moves HB 2494 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-3-0
		AYE: 6 - Ackerman, Anderson, Barker, Krummel, Shetterly, Williams
		NAY: 3 - Jenson, Macpherson, Prozanski
334	Chair Williams	The motion CARRIES.
		REP. WILLIAMS will lead discussion on the floor.
350	Chair Williams	Closes work session on HB 2494 and adjourns at 3:10 pm.

EXHIBIT SUMMARY

A – SB 611A, written testimony, Cindy Robert, 15 pp
B – HB 3630, written testimony, Cory Streisinger, 4 pp
C – HB 3630-3 amendments, Cory Streisinger, 9 pp
D – HB 3630, written testimony, Karen Whitaker, 8 pp
E – HB 3630, written testimony, Scott Gallant, 15 pp
F – HB 3630, written testimony, John DiLorenzo, 6 pp, and notebook (Archives)
G – HB 2498-3 amendments, staff, 4 pp
H – HB 2494-2 amendments, staff, 3 pp