

## HOUSE COMMITTEE ON JUDICIARY

May 16, 2003 Hearing Room 357

1:00 p.m. Tapes 194-196

**MEMBERS PRESENT:**        Rep. Max Williams, Chair  
                                 Rep. Gordon Anderson, Vice-Chair  
                                 Rep. Robert Ackerman, 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  
                                 Craig Prins, Counsel  
                                 Ann Martin, Committee Assistant

**MEASURE/ISSUES HEARD:**        SB 882A Public Hearing  
                                 SB 68 Public Hearing and Work Session  
                                 SB 69A Public Hearing and Work Session  
                                 SB 64A Public Hearing and Work Session  
                                 SB 609A Public Hearing  
                                 SB 41 Work Session  
                                 SB 259 Work Session

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 194, A</b>		
003	Vice Chair Ackerman	Calls the meeting to order at 1:25 p.m. Opens a public hearing on SB 882A.
<b>SB 882A PUBLIC HEARING</b>		
013	Craig Prins	Committee Counsel. Introduces SB 882A which authorizes presiding judge of twenty-second judicial district to enter into memorandum of understanding with Confederated Tribes of Warm Springs regarding adjudication and disposition of youths and youth offenders. Discusses –A2 amendments ( <b>EXHIBIT A</b> ).
029	Wallace P. Carson, Jr.	Chief Justice of the Oregon Supreme Court. Testifies in support of SB 882A.
042	Rep. Jenson	Asks about the memorandum of understanding.
048	Chief Justice Carson	Answers that it takes the presiding judge and himself to sign off on it. Says that he has not seen the memorandum of understanding yet.
058	Rep. Barker	Asks what happens to a juvenile that commits a Measure 11 crime.
062	Chief Justice Carson	Says that they are treated as an adult.
068	Daniel Ahern	Circuit Court Judge, Jefferson County Courthouse. Submits testimony and testifies in support of SB 882A ( <b>EXHIBIT B</b> ).

120	Jennifer Kimble	Defense Attorney, Jefferson County. Testifies in support of SB 882A.
140	Matthew Birnie	Jefferson County Juvenile Department Director. Testifies in support of SB 882A. Says he does not support the -A2 amendments.
192 201	Rep. Jenson Birnie	Asks how many cases would be eligible for this type of action. Answers that approximately 200 referrals per year come to the county juvenile department for offenses committed by tribal enrolled youths committed off the reservation.
217	Rep. Jenson	Asks if there is a judge in Jefferson County that handles all of the juvenile cases or are they spread around the circuit court.
223	Judge Ahern	Answers that there are three judges in the 22 <sup>nd</sup> judicial district and two of them live in Jefferson county. Says that there are two judges that do most of the juvenile work.
236	Vice Chair Anderson	Asks if there are non-tribal children that live on tribal lands. Asks how they are adjudicated.
238 246 260	Judge Ahern Birnie Michael Mason	Answers, yes. Says they are brought to his court. Comments on question asked by Rep. Jenson. Confederated Tribes of the Warm Springs Reservation of Oregon. Submits testimony and testifies in support of SB 882A <b>(EXHIBIT C)</b> . Discusses the -2 amendments <b>(Exhibit A)</b> .
302	Roger Martin	Confederated Tribes of the Umatilla Reservation. Testifies in support of SB 882A.
332 345	Rep. Prozanski Mason	Asks why we are at this juncture. Says that most of the tribes in Oregon are not developed enough to handle juvenile cases like this.
363	Judge Ahern	Explains that they have been meeting with the tribes for about 6 years and it is a slow process.
402	Rep. Jenson	Discusses the bill.
<b>TAPE 195, A</b>		
023	Chair Williams	Closes the public hearing on SB 882A and opens a public hearing on SB 68.
<b><u>SB 68 PUBLIC HEARING</u></b>		
029	Craig Prins	Committee Counsel. Introduces SB 68 which corrects references to repealed statutes.
034	Wendy Johnson	Oregon Law Commission. Testifies in support of SB 68.
041	Chair Williams	Closes the public hearing on SB 68 and opens a work session.
<b><u>SB 68 WORK SESSION</u></b>		
<b>052</b>	<b>Vice Chair Ackerman</b>	<b>MOTION: Moves SB 68 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.</b>
		<b>VOTE: 9-0</b>
<b>055</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
063	Chair Williams	Closes the work session on SB 68 and opens a public hearing on SB 69A.
<b><u>SB 69A PUBLIC HEARING</u></b>		
075	Craig Prins	Committee Counsel. Introduces SB 69A which modifies references to child, youth and youth offender in general provisions relating to juvenile court. Discusses the -A2 amendments <b>(EXHIBIT D)</b> .
080	Timothy Travis	Oregon Judicial Department. Submits testimony and testifies in support of SB 69A <b>(EXHIBIT E)</b> .
163	Chair Williams	Asks Mr. Travis about the -A2 amendments.

166	Travis	Says that the –A2 amendments are conflict amendments.
176	Chair Williams	Closes the public hearing on SB 69A and opens a work session.
<b><u>SB 69A WORK SESSION</u></b>		
179	Rep. Shetterly	<b>MOTION: Moves to ADOPT SB 69A-2 amendments dated 05/15/03.</b>
		<b>VOTE: 9-0</b>
180	Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
182	Rep. Shetterly	<b>MOTION: Moves SB 69A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 9-0</b>
188	Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>REP. KRUMMEL will lead discussion on the floor.</b>
192	Chair Williams	Closes the work session on SB 69A and opens a public hearing on SB 64A.
<b><u>SB 64A PUBLIC HEARING</u></b>		
200	Warren Deras	Attorney, Estate Planning and Probate. Submits testimony and testifies in support of SB 64A ( <b>EXHIBIT F &amp; G</b> ).
318	Deras	Continues his testimony in support of SB 64A.
<b>TAPE 194, B</b>		
025	Deras	Continues his testimony in support of SB 64A. Discusses Escheat Law.
100	Rep. Macpherson	Asks about the Escheat general rules.
111	Deras	Explains Escheat laws throughout the United States.
125	Rep. Macpherson	Comments on antiquated property laws.
142	Deras	Discusses a current case.
166	Rep. Krummel	Asks what a “laughing heir” is.
172	Deras	Answers that is a person that is related by blood to a decedent, but did not know the decedent well enough to be mourning his/her death.
187	Jeannette Holman	Division of State Lands. Submits testimony and testifies in support of SB 64A ( <b>EXHIBIT H</b> ).
205	Chair Williams	Closes the public hearing on SB 64A and opens a work session.
<b><u>SB 64A WORK SESSION</u></b>		
212	Rep. Prozanski	<b>MOTION: Moves SB 64A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b>
214	Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>REP. MACPHERSON will lead discussion on the floor.</b>
222	Chair Williams	Closes the work session on SB 64A and opens a public hearing on SB 609A.
<b><u>SB 609A PUBLIC HEARING</u></b>		
240	Bill Joseph	Committee Counsel. Introduces SB 609A which specifies that person who offers security or offers to purchase security in violation of securities laws or by means of untrue statement or omission may be liable for damages in action brought under securities laws.
243	Scott Shorr	Attorney. Submits testimony and testifies in support of SB 609A ( <b>EXHIBIT I</b> ).
349	Fred Boss	Assistant Attorney General, Department of Justice. Testifies in support of SB 609A.
364	Floyd Lanter	Administrator, Department of Consumer and Business Services. Submits testimony and testifies in support of SB 609A ( <b>EXHIBIT J</b> ).

404	Kate Richardson	Treasurer's Office. Testifies in support of SB 609A.
423	Rep. Macpherson	Asks if the remedies made available by this bill would extend to the accounting firms.
434	Shorr	Says that he believes they would.
446	Chair Williams	Closes the public hearing on SB 609A and opens a work session on SB 41.

**SB 41 WORK SESSION**

**TAPE 195, B**

009	Bill Joseph	Committee Counsel. Introduces SB 41 which provides that prevailing part in civil action relating to express or implied contract is entitled to award of attorney fees authorized by contract or by statute, even though party prevails by reason of claim or defense asserting that contract is in whole or part void or unenforceable. Talks about the -3 amendments ( <b>EXHIBIT K</b> ).
028	Susan Grabe	Oregon State Bar. Says that the National Federation of Independent Business (NFIB/Oregon) no longer have concerns with the bill.
041	Harlan Levy	Staff Attorney, Oregon Association of Realtors. Says that their concerns will go away with the -3 amendments.
045	Rep. Krummel	Ask what the -3 amendments do.
048	Joseph	Explains the -3 amendments.
051	Rep. Shetterly	Says that he does not support the -3 amendments.
067	Vice Chair Ackerman	States he also cannot support the -3 amendments.
075	Julie Brandis	Associated Oregon Industries. Testifies as neutral on SB 41.
093	Michael Zusman	Oregon State Bar, Procedure and Practice Commission. Says that they support the -3 amendments.
103	Rep. Krummel	Asks for an explanation of the bill.
100	Zusman	Explains that there has been a judge-made law that has carved out an exception to universal reciprocity.
125	Joseph	Explains that this is only in regards to contracts that have a prevailing party attorneys fees clause.
160	Chair Williams	Discusses bill.
183	Rep. Shetterly	Says that without the reciprocity we are rewarding the bad actor.
200	Joseph	Discusses the reciprocity and says that it benefits all of the parties.
218	Zusman	Says that this bill is good for business-to-business transactions.
232	Rep. Krummel	States that he is not going to support the bill today because he has some concerns to work through.
251	Vice Chair Anderson	Asks for an explanation as to why the realtors would not like to see "residential use" in the bill.
256	Chair Williams	Explains that by taking out "residential use" from the -2 amendments ( <b>EXHIBIT L</b> ), the -3 amendments broaden the exemption.
270	Levy	Says that their concern is that this would lead to more claims for rescission of contracts. Discusses the -2 and -3 amendments. Says that in order to have a neutral position on the bill, they want all real estate contracts exempted from the bill.
281	Rep. Shetterly	States that he does not agree with their position.
299	Joseph	Describes a situation he had in a real estate suit.
326	<b>Rep. Shetterly</b>	<b>MOTION: Moves SB 41 to the floor with a DO PASS recommendation.</b>
338		<b>VOTE: 8-1-0</b>

		<b>AYE: 8 - Ackerman, Anderson, Barker, Jenson, Macpherson, Prozanski, Shetterly, Williams</b>
		<b>NAY: 1 - Krummel</b>
<b>339</b>	<b>Chair Williams</b>	<b>The motion CARRIES.</b>
		<b>REP. SHETTERLY will lead discussion on the floor.</b>
342	Chair Williams	Closes the work session on SB 41 and opens a work session on SB 259.
<b><u>SB 259 WORK SESSION</u></b>		
360	Mark Landauer	City of Portland, Office of Government Relations. Testifies in support of SB 259 which requires person requesting inspection of public record that person knows relates to claim against public body to notify attorney for public body of request.
391	Rep. Krummel	Asks if it is the city attorney that gets the copy of the request for public information.
393	Landauer	Answers that is correct.
394	Rep. Barker	Asks if all this does is notify the city attorney.
402	Landauer	Explains that the bill gives the opportunity for all attorneys to play on a level playing field to know what information is out there.
439	Chair Williams	Explains the bill.
<b>TAPE 196, A</b>		
019	Rep. Shetterly	Wonders if there is enough connection or communication between outside counsel and the in-house city attorneys so that if there is litigation the city attorneys will know what it is about.
032	Landauer	Says that the Senate raised that question and the city attorneys will get notice.
<b>045</b>	<b>Vice Chair Ackerman</b>	<b>MOTION: Moves SB 259 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b>
<b>050</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>REP. ACKERMAN will lead discussion on the floor.</b>
055	Chair Williams	Closes the work session on SB 259. Adjourns the meeting at 3:15 p.m.

## **EXHIBIT SUMMARY**

- A – SB 882A, -A2 amendments, submitted by staff, dated 5/9/03, 1 pg.**
- B – SB 882A, written testimony, submitted by Judge Daniel Ahern, 2 pgs.**
- C – SB 882A, written testimony, submitted by Michael Mason, 1 pg.**
- D – SB 69A, -A2 amendments, submitted by staff, dated 5/15/03, 18 pgs.**
- E – SB 69A, Juvenile Code Revision Report, submitted by Timothy Travis, 9 pgs.**
- F – SB 64A, written testimony on Escheat Law Revision, submitted by Warren Deras, 6 pgs.**
- G – SB 64A, section-by-section analysis of SB 64A, submitted by Warren Deras, 20 pgs.**
- H – SB 64A, written testimony, submitted by Jeannette Holman, 1 pg.**
- I – SB 609A, written testimony, submitted by Scott Shorr, 2 pgs.**
- J – SB 609A, written testimony, submitted by Floyd Lanter, 2 pgs.**
- K – SB 41, -3 amendments, submitted by staff, dated 5/14/03, 1 pg.**