

## HOUSE COMMITTEE ON JUDICIARY

May 06, 2003 Hearing Room 357

1:00 pm Tapes 176 - 178

**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 255A Public Hearing and Work Session  
                                 HB 2080 Work Session  
                                 HB 3385 Work Session  
                                 HB 3426 Work Session  
                                 SB 397A Public Hearing and Work Session  
                                 SB 259 Public Hearing  
                                 SB 136A Public Hearing and Work Session  
                                 SB 216 Public Hearing and Work Session  
                                 SB 716A Public Hearing and 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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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 176, A</b>		
050	Chair Williams	Opens meeting at 1:05 pm. Opens public hearing on SB 255A.
<b><u>SB 255A PUBLIC HEARING</u></b>		
060	Sen. Kurt Schrader	Senate District 20. Testifies in support of SB 255A which requires veterinarians to report suspected aggravated animal abuse.
079	Dave Barrows	Oregon Veterinarian Medical Association (OVMA). Testifies in support of SB 255A and submits testimony ( <b>EXHIBIT A</b> ).
080	Marcia Keith	OVMA. Testifies in support of SB 255A.
126	Lt. Randy Covey	Oregon Humane Society. Testifies in support of SB 255A and submits testimony ( <b>EXHIBIT B</b> ).
142	Rep. Jenson	Gives example of dairy cattle abuse.
145	Lt. Covey	Clarifies this bill deals with abuse cases that veterinarians are aware of. This bill creates a mechanism for veterinarians to report abuse.
143	Barrows	Refers to page 1, line 14 of the bill for clarification. Cites ORS 167.335, specific exemptions.
180	Rep. Shetterly	Discusses animal abuse in animal husbandry.
209	Barrows	Defines animal abuse.
234	Rep. Jenson	Asks about dairy industry health concerns. Asks what happens if

270	Barrows	a landowner bars inspection.
280	Rep. Shetterly	States this bill relates only to veterinarians. Questions civil community in the bill and failure to report abuse. Refers to Section 6.
329	Chair Williams	Closes public hearing. Opens work session on SB 255A.
<b><u>SB 255A WORK SESSION</u></b>		
330	Rep. Shetterly	<b>MOTION: Moves SB 255A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0-2</b>
331	Chair Williams	<b>EXCUSED: 2 – Krummel, Macpherson</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. ANDERSON will lead discussion on the floor.</b>
380	Chair Williams	Closes work session on SB 255A. Opens public hearing on HB 2080.
<b><u>HB 2080 WORK SESSION</u></b>		
384	Jim Gardner	Gardner and Gardner. Testifies in support of HB 2080, which provides that statute of limitations for product liability civil actions commences to run when plaintiff first discovered, or in exercise of reasonable care should have discovered, death, injury or damage complained of. Explains the -5 and -7 amendments and submits ( <b>EXHIBITS B-1 and C</b> ).
460	Richard Lane	Oregon Trial Lawyers Association (OTLA). States this is almost a consensus bill as far as correcting two mistakes caused by the <i>Gladhart</i> and <i>Canberry</i> cases. Testifies in support of HB 2080 with the amendments.
480	Linda Eyerman	Attorney, Portland. Testifies that Section 1 is identical in -5 and -7 amendments.
<b>TAPE 177, A</b>		
050	Eyerman	Continues testifying in support of HB 2080. Thinks the -7 amendments are too narrow and fix only the <i>Gladhart</i> problem. Refers to section 2 of the -5 amendments which is more fair. Says it is a policy decision.
110	Gardner	Refers to -7 amendments, page 2, “after exhaustion of all appeals.”
120	Rep. Krummel	Asks under the current statute what would the normal timeframe be to file a lawsuit.
131	Gardner	Answers in the pre- <i>Gladhart</i> period, it would have been 8 year statute of repose, and then 2 years to file.
138	Lane	Refers to either -5 or -7 amendments, section 1 as pre- <i>Gladhart</i> .
142	Chair Williams	Discusses the -7 amendments. Asks who is missing in that category.
145	Eyerman	Leaving out death as the -7 does, revives <i>Canberry</i> . Suggests changes to the -7 amendment.
200	Lane	Describes three classes of people affected.
220	Committee	Discusses the -5 and -7 amendments at length. Discusses moving the bill forward.
290	Chair Williams	<b>MOTION: Moves to conceptually amend HB 2080-7 amendments dated 5/6/03 on page 2, line 7, by inserting "death" after the second "for" and page 2, lines 14-15 delete "after exhaustion of all appeals."</b>
		<b>VOTE: 9-0</b>
295	Chair Williams	<b>MOTION: Moves to ADOPT HB 2080-7 amendments dated</b>

5/6/03 as conceptually amended.

**VOTE: 6-3-0**

**AYE: 6 - Anderson, Barker, Jenson, Krummel, Shetterly, Williams**

**NAY: 3 - Ackerman, Macpherson, Prozanski**

**The motion CARRIES.**

**MOTION: Moves HB 2080 to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 9-0**

**Hearing no objection, declares the motion CARRIED.**

**REP. WILLIAMS will lead discussion on the floor.**

300 Chair Williams  
315 Chair Williams

325 Chair Williams

**TAPE 176, B**

035 Chair Williams

Closes work session on HB 2080. Opens work session on HB 3385.

**HB 3385 WORK SESSION**

040 Barbara Kanz

Vial-Fotheringham and the Condominium Association. Testifies in support of HB 3385 with the -3 amendments (**EXHIBIT D**). Believes bill balances between home owners and home owner associations.

079 Matt Farmer

Oregon Association of Realtors. Comments about unintended consequences. Questions about clouding title. Concern is filing things with no merit. Refers to section 2 of the bill. Concern is that due process be included.

180 Kanz

Discusses how statutes can terminate utilities. Adding in provisions merely codifies existing practice.

224 Farmer

Responds on the violations brought forth.

255 Chair Williams

Closes work session on HB 3385. Opens work session on HB 3426.

**HB 3426 WORK SESSION**

280 Craig Prins

Committee Counsel. Describes HB 3426 which restricts circumstances under which peace officer may use deadly physical force. Explains the -3 amendments (**EXHIBIT E**).

358 Rep. Jenson

Says he is not sure about the constitutionality of HB 3426. Discusses probable cause for death or serious injury.

404 Prins

Refers to section 4.

**TAPE 177, B**

008 Prins

Describes difference between Corrections Officers and street officers.

030 Rep. Prozanski

Refers to page 2 of the amendments.

054 Rep. Barker

States the intent is with police officer language.

060 Prins

Refers to current standards.

070 Stan Czerniak

Department of Corrections. Explains policy of using least force necessary to stop an inmate. Describes only certain circumstances when lethal force can be used. Primary mission of officer is to protect the public.

109 Rep. Prozanski

Refers to amendments. Refers to necessity of force on low-level offenses.

115 Czerniak

Responds about treatment of prisoners and protection of the public.

139 Rep. Prozanski

Asks about the steps to reach threshold of apprehending prisoners in low level offenses.

145 Czerniak

Explains circumstances when an armed officer must respond to an event such as an escape.

185 Rep. Shetterly Asks about tools needed to contain work crews and other low-level risk prisoners.  
227 Czerniak Explains that work crew officers are unarmed.  
266 Chair Williams Describes the population of work crews. Explains the institutional policy. Asks Rep. Barker to work with counsel and DOC to clarify the bill so that it is more acceptable. Closes work session on HB 3426. Opens public hearing on SB 397A.

**SB 397A PUBLIC HEARING**

300 Shawn Miller Oregon Grocers Association (OGA). Testifies in support of SB 397A which establishes 3-year statute of limitation for civil action based on shoplifting or taking of agricultural produce, and submits testimony (**EXHIBIT F**).  
332 Shannon Poe Winco Foods, Director of Security. Testifies in support of SB 397A and submits testimony (**EXHIBIT G**). Describes shoplifting as a big problem in the stores.  
350 Rep. Shetterly Comments on two-year statute of limitations.  
394 Rep. Krummel Asks about the courts collecting restitution.  
**TAPE 178, A**  
010 Rep. Barker Discusses shoplifting as a crime. Says SB 397A is a reasonable request.  
020 Chair Williams Closes public hearing on HB 397A. Opens work session on HB 397A.

**HB 397A WORK SESSION**

024 Rep. Barker **MOTION: Moves SB 397A to the floor with a DO PASS recommendation.**  
**VOTE: 7-0-2**  
**EXCUSED: 2 - Macpherson, Prozanski**  
**Hearing no objection, declares the motion CARRIED.**  
**REP. BARKER will lead discussion on the floor.**  
030 Chair Williams  
015 Chair Williams Closes work session on SB 397A. Opens public hearing on SB 259.

**SB 259 PUBLIC HEARING**

069 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, and submits (**EXHIBIT I**).  
077 Benjamin Walters Deputy City Attorney, Portland. Testifies in support of SB 259.  
100 Staff Submits testimony in support of HB 259 from City of Eugene (**EXHIBIT H**) and from the League of Oregon Cities (**EXHIBIT J**).  
125 Chair Williams Closes public hearing on SB 259. Opens public hearing on SB 136A.

**SB 136A PUBLIC HEARING**

134 Tom Wrosch Secretary of State, Corporation Division. Testifies in support of SB 136A which permits Secretary of State to refuse to accept certain wrongful filings under Uniform Commercial Code Secured Transactions. Explains how some filers can manipulate filings (**EXHIBIT K**).  
154 Chair Williams Closes public hearing. Opens work session on SB 136A.

**SB 136A WORK SESSION**

155 Rep. Shetterly **MOTION: Moves SB 136A to the floor with a DO PASS recommendation.**

**VOTE: 5-0-4**  
**EXCUSED: 4 - Anderson, Barker, Krummel, Macpherson**  
**Hearing no objection, declares the motion CARRIED.**  
**REP. ACKERMAN will lead discussion on the floor.**

156 Chair Williams  
157 Chair Williams  
Closes work session on SB 136A. Opens public hearing on SB 216.

**SB 216 PUBLIC HEARING**

181 Jeannette Holman  
230 Rep. Jenson  
232 Holman  
240 Chair Williams

Division of State Lands. Testifies in support of SB 216 which establishes contested case proceeding as method to resolve disputes in unclaimed property examinations (**EXHIBIT L**).  
Asks about line 20, why was credit union omitted.  
Responds credit union is included in the cross reference definitions.  
Closes public hearing on SB 216. Opens work session on SB 216.

**SB 216 WORK SESSION**

242 Rep. Jenson  
243 Chair Williams  
244 Chair Williams

**MOTION: Moves SB 216 to the floor with a DO PASS recommendation.**  
**VOTE: 6-0-3**  
**EXCUSED: 3 - Barker, Krummel, Macpherson**  
**Hearing no objection, declares the motion CARRIED.**  
**REP. JENSON will lead discussion on the floor.**  
Closes work session on SB 216. Opens public hearing on SB 716A.

**SB 716A PUBLIC HEARING**

280 John Hellen  
300 Rep. Jenson  
325 Ross Laybourn  
350 Rep. Prozanski  
355 Hellen  
360 Chair Williams

Oregon Charitable Gaming Association. Testifies in support of SB 716A which authorizes Department of Justice to approve linked progressive bingo game conducted by charitable, fraternal or religious organization. Supports the –A2 amendments. (**EXHIBIT M**).  
Relates to the Happy Canyon Pendleton issue that was previously dealt with and asks if there are any problems in this bill.  
Department of Justice (DOJ). Testifies that there are no options in the bill that would impact the Happy Canyon exception.  
Asks why the A2 amendments are needed.  
Answers they want to get the game going before next spring.  
Closes public hearing on SB 716A. Opens work session on SB 716A.

**SB 716 A WORK SESSION**

361 Rep. Prozanski  
362 Chair Williams  
363 Rep. Prozanski  
364 Chair Williams  
365 Chair Williams

**MOTION: Moves to ADOPT SB 716A-2 amendments dated 5/1/03.**  
**VOTE: 6-0-3**  
**EXCUSED: 3 - Barker, Krummel, Macpherson**  
**Hearing no objection, declares the motion CARRIED.**  
**MOTION: Moves SB 716A to the floor with a DO PASS AS AMENDED recommendation.**  
**VOTE: 6-0-3**  
**EXCUSED: 3 - Barker, Krummel, Macpherson**  
**Hearing no objection, declares the motion CARRIED.**  
**REP. MACPHERSON will lead discussion on the floor.**  
Closes work session on SB 716A. Adjourns at 3:25 p.m.

## **EXHIBIT SUMMARY**

- A – SB 255A, written testimony, Dave Barrows, 2 pp**
- B – SB 255A, written testimony, Lt. Randy Covey, 20 pp**
- B-1 – HB 2080-7 amendments, Jim Gardner, 2 pp**
- C – HB 2080-5 and -6 amendments, staff, 2 pp**
- D – HB 3385 Summary of -3 amendments, Barbara Kanz, 9 pp**
- E – HB 3426-3 amendments, staff, 2 pp**
- F – SB 397A, written testimony, Shawn Miller, 1 p**
- G – SB 397A, written testimony, Shannon Poe, 1 p**
- H – SB 259, written testimony of Seth Karpinski for City of Eugene, 1 p**
- I – SB 259, written testimony from City of Portland, Mark Landauer, 2 pp**
- J - SB 259, written testimony, League of Oregon Cities, 1 p**
- K – SB 136A, written testimony, Tom Wrosch, 2 pp**
- L – SB 216, written testimony, Jeannette Holman, 2 pp**
- M – SB 716-A2 amendment, staff, 1 p**