

HOUSE COMMITTEE ON JUDICIARY

June 02, 2003 Hearing Room 357

1:00 p.m. Tapes 211 - 213

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: Craig Prins, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: SB 808A Reconsideration and Work Session
 HB 3630 Work Session
 SB 880A Public Hearing

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 211, A		
003	Chair Williams	Calls the meeting to order at 1:08 p.m. Opens a work session on SB 808A.
<u>SB 808A RECONSIDERATION AND WORK SESSION</u>		
014	Vice-Chair Ackerman	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 808A. VOTE: 6-0-3 EXCUSED: 3 - Barker, Prozanski, Shetterly
015	Chair Williams	Hearing no objection, declares the motion CARRIED .
016	Vice-Chair Ackerman	MOTION: Moves to RECONSIDER the vote by which SB 808A was sent to the floor with a DO PASS AS AMENDED recommendation. VOTE: 6-0-3 EXCUSED: 3 - Barker, Prozanski, Shetterly
017	Chair Williams	Hearing no objection, declares the motion CARRIED .
019	Vice-Chair Ackerman	MOTION: Moves to ADOPT SB 808A-A4 amendments dated 05/30/03 (EXHIBIT A). VOTE: 6-0-3 EXCUSED: 3 - Barker, Prozanski, Shetterly
022	Chair Williams	Hearing no objection, declares the motion CARRIED .
029	Vice Chair Ackerman	MOTION: Moves SB 808A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 6-0-3 EXCUSED: 3 - Barker, Prozanski, Shetterly
037	Chair Williams	Hearing no objection, declares the motion CARRIED .

		REP. ACKERMAN will lead discussion on the floor.
039	Chair Williams	Closes the work session on SB 808A and opens a work session on HB 3630.
	HB 3630 WORK SESSION	
040	Chair Williams	Introduces 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 -4 amendments (EXHIBIT B).
074	Cory Streisinger	Director, Department of Consumer and Business Services. Testifies in support of HB 3630 and the -4 amendments.
163	Scott Gallant	Oregon Medical Association (OMA). Testifies in support of HB 3630.
193	Richard Lane	Oregon Trial Lawyers Association. Supports the -4 amendments.
210	Rep. Prozanski	Asks about Section 10, page 7 of the -4 amendments. Wonders who will be available to be on this panel.
225	Streisinger	Says that at least half of the panel should consist of people that have expertise in gathering or applying research data.
236	Gallant	Discusses who should be on the professional panel.
253	Chair Williams	Explains the purpose of the panel in subsection 3, page 7 of the -4 amendments.
289	Rep. Prozanski	Says that he doesn't want the panel to be partisan.
295	Chair Williams	Thinks this panel should not include legislators.
328	Bruce Bishop	Oregon Association of Hospitals and Health Systems. Testifies in support of the amendments to HB 3630.
337	Lauren Rhodes	Oregon Association of Hospitals and Health Systems. Testifies in support of the amendments to HB 3630.
381	Streisinger	Discusses the conceptual amendments (EXHIBITS C & D).
409	Chair Williams	Talks about conceptual amendments.
	TAPE 212, A	
007	Rep. Krummel	Asks about the two percent credited to the State Accident Insurance Fund Corporation (SAIF).
011	Chair Williams	Answers that it is within the 10 million dollar provision of the bill.
020	Rep. Krummel	Asks if it is a one-time cost.
023	Streisinger	Answers that it would be a one-time cost.
031	Charlie Cheek	Legislative Counsel, drafter. Discusses the conceptual amendments.
032	Streisinger	Talks about 2 nd conceptual amendment (Exhibit D).
040	Rep. Krummel	Asks about providers that could get their premiums reduced.
048	Streisinger	Answers that a physician may choose to carry between 1 and 3 million dollar aggregate limits to have their premiums reduced.
055	Rep. Krummel	Inquires about the average aggregate limit for physicians.
062	Gallant	Says that most physicians carry a minimum of one million to three million.
071	Chair Williams	Discusses capping the aggregate amount of the medical liability insurance. Asks Charlie Cheek if he is satisfied with the conceptual amendments.
106	Charlie Cheek	Drafter, Legislative Counsel. Answers yes, and gives suggestions on amendments.
121	Vice Chair Anderson	Introduces the -5 amendments to HB 3630 (EXHIBIT E).
122	Rep. Anderson	MOTION: Moves to ADOPT HB 3630-5 amendments dated 06/02/03.

166	Rep. Prozanski	Questions the relating clause.
177	Chair Williams	Says that the relating clause is broad enough to assume the -5 amendments.
197	Rep. Prozanski	Thinks that they are discussing two separate policy issues.
216	Vice Chair Ackerman	Discusses bill. Says that he thinks medical malpractice should be addressed in a different way.
229	Rep. Krummel	States that this is an opportunity to give SAIF a new public purpose. Says he supports the -4 amendments, but not the -5 amendments.
283	Rep. Macpherson	Discusses the bill and explains that he sees two separate policies.
309	Chair Williams	Informs the committee that he does not support the -5 amendments.
375	Vice Chair Anderson	MOTION: Moves to ADOPT HB 3630-5 amendments dated 06/02/03. VOTE: 3-6 AYE: 3 - Anderson, Jenson, Macpherson NAY: 6 - Ackerman, Barker, Krummel, Prozanski, Shetterly, Williams
390	Chair Williams	The motion FAILS.
391	Chair Williams	MOTION: Moves to ADOPT THE CONCEPTUAL AMENDMENTS TO HB 3630-4 amendments dated 06/02/03, by inserting on page 9, after line 11:"(3) The costs of the services of the consultant hired under section 11 of this 2003 Act shall be paid by the State Accident Insurance Fund Corporation from the amount available for credit to the annual assessment owing by the State Accident Insurance Fund Corporation under this section. The cost of the services shall not exceed two percent of the amount credited to the State Accident Insurance Fund Corporation for 2004." VOTE: 9-0
395	Chair Williams	Hearing no objection, declares the motion CARRIED.
398	Rep. Williams	MOTION: Moves to ADOPT THE CONCEPTUAL AMENDMENTS TO HB 3630-4 amendments dated 06/02/03, by inserting on page 3, after line 17: "(c) Premium reductions shall be a percentage of the actual premium charged for medical professional liability insurance in the market of authorized insurers for limits purchased of up to \$1 million per occurrence and \$3 million annual aggregate." VOTE: 9-0
400	Chair Williams	Hearing no objection, declares the motion CARRIED.
409	Chair Williams	MOTION: Moves to ADOPT HB 3630-4 amendments dated 06/02/03 AS CONCEPTUALLY AMENDED. VOTE: 9-0
417	Chair Williams	Hearing no objection, declares the motion CARRIED.
430	Rep. Prozanski	MOTION: Moves HB 3630 to the floor with a DO PASS AS AMENDED recommendation.
438	Rep. Jenson	Responds to the issue of a legislative oversight committee.
450	Rep. Prozanski	Agrees.
459	Vice Chair Anderson	Says that he feels very strongly that this is a bill that we need.

475
480 Chair Williams

TAPE 211, B

029 Chair Williams

SB 880A PUBLIC HEARING

033 Craig Prins

055 Jim Gardner

165 Rep. Shetterly

187 Gardner

195 Bill Linden

259 Rep. Prozanski
269 Gardner

298 Rep. Macpherson

304 Gardner

311 Rep. Macpherson

313 Linden

322 Rep. Macpherson

329 Gardner

339 Rep. Shetterly

349 Linden

359 Gardner

377 Rep. Prozanski

385 Linden

420 Pete Shepherd

TAPE 212, B

012 Shepherd

157 Chair Williams

159 Shepherd

163 Chuck Tauman

VOTE: 9-0

**Hearing no objection, declares the motion CARRIED.
REP. WILLIAMS will lead discussion on the floor.**

Closes the work session on HB 3630 and opens a public hearing on SB 880A.

Committee Counsel. Introduces SB 880A which establishes amount of supersedeas undertaking required for stay of certain judgments if judgment is against tobacco product manufacturer or affiliate or successor of tobacco product manufacturer that is making payments to state under Master Settlement Agreement or related legislation. Discusses -5 amendments and hand-engrossed bill (**EXHIBITS F & G**).

Philip Morris. Submits testimony and testifies in support of SB 880A (**EXHIBIT H**).

Asks about Section 2, subsection 1, line 17, page 1 of the hand-engrossed bill (**Exhibit H**). Wonders why they need the reference to \$1 million on line 23, page 1.

Says he would need to consult with Legislative Counsel, but could probably take it out.

R.J. Reynolds Tobacco Company. Testifies in support of SB 880A.

Asks about the proposed amendments.

Says that the whole objective of this is to have the legislature create one small island of relative certainty in a sea of fiscal uncertainty.

Asks Mr. Gardner how diversified are the obligations under the Master Settlement Agreement.

Answers that he believes that Phillip Morris's share is roughly 50 percent of the industry total.

Asks how many total companies there are.

Says that the next highest share is R.J. Reynolds Tobacco.

Asks about the pattern in the tobacco litigation.

Answers that it really varies.

Asks about a judgment in the case of two manufacturers.

Says that how it is apportioned among the defendants is up to them.

Believes that it would be the judgment upon which the bond limitation applies. Says that the supersedeas would suspend the operation of that judgment pending appeal.

Asks about judgments.

Gives answer regarding judgments and multiple defendants.

Deputy Attorney General. Submits testimony and testifies in opposition to SB 880A and the -A5 amendments (**EXHIBIT I**).

Continues his testimony in opposition to SB 880A.

Asks if he took a position on this bill in the Senate.

Says they did and they testified that \$100 million was not sufficient.

Trial Lawyer, Portland. Submits testimony and testifies in opposition to SB 880A (**EXHIBIT J**). Shows video of Dr. Schwartz whose wife died of lung cancer.

287	Tauman	Continues his testimony in opposition to SB 880A. Thinks that Philip Morris is asking for special privileges.
445	Tauman	Continues his testimony in opposition to SB 880A.
TAPE 213, A		
030	Tauman	Continues his testimony in opposition to SB 880A.
097	Rep. Krummel	Asks if the bill was in effect, would the tobacco company have to post a bond of \$15 million instead of \$100 million.
131	Tauman	Answers, actually less than that. Explains that it would allow the tobacco companies to stop the running of the judgment.
130	Chair Williams	Closes the public hearing on SB 880A. Adjourns the meeting at 3:05 p.m.

EXHIBIT SUMMARY

- A – SB 808A, -A4 amendments, submitted by staff, dated 5/30/03, 7 pgs.**
- B – HB 3630, -4 amendments, submitted by staff, dated 6/2/03, 10 pgs.**
- C – HB 3630, conceptual amendments to -4 amendments, 1 pg.**
- D – HB 3630, 2nd set of conceptual amendments to -4 amendments, 1 pg.**
- E – HB 3630, -5 amendments, submitted by Rep. Anderson, dated 6/20/03, 11 pgs.**
- F – SB 880A, -A5 amendments, submitted by staff, dated 5/28/03, 1 pg.**
- G – SB 880A, hand-engrossed bill with the -5 amendments, submitted by staff, 3 pgs.**
- H – SB 880, written testimony, submitted by Jim Gardner, 1 pg.**
- I – SB 880A, conceptual amendment, submitted by Pete Shepherd, 1 pg.**
- J – SB 880, written testimony of Richard G. Schwarz, M.D., submitted by Chuck Tauman, 2 pgs.**