

# HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

April 03, 2003 Hearing Room E  
1:00 PM Tapes 35 - 36

**MEMBERS PRESENT:**        **Rep. Dan Doyle, Chair**  
                                  **Rep. Linda Flores, Vice-Chair**  
                                  **Rep. Laurie Monnes Anderson, Vice Chair**  
                                  **Rep. Vic Backlund**  
                                  **Rep. Betsy L. Close**  
                                  **Rep. Joanne Verger**

**MEMBER EXCUSED:**        **Rep. Phil Barnhart**

**STAFF PRESENT:**         **Cara Filsinger, Administrator**  
                                  **Annetta Mullins, Committee Assistant**

**MEASURE/ISSUES HEARD: SJR 38-A – Public Hearing and Work Session**  
                                  **HJR 42 – Public Hearing**  
                                  **HB 3093 – Public Hearing**  
                                  **SB 135-A – Public Hearing**  
                                  **HB 3351 – 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 35, A</b>		
004	Chair Doyle	Calls meeting to order at 1:02 p.m., announces order of agenda items for the day, and opens a public hearing on SJR 38-A.
<b><u>SJR 38-A – PUBLIC HEARING</u></b>		
012	Sen. Bev Clarno Rep. Backlund	Deschutes County. Testifies in support of SJR 38-A. Comments on seeing film about the battle account of Barber and Yamamoto.
	Sen. Clarno	Adds that Mr. Barber completed his life by being a Cub Scout leader and being involved in many other community activities.
052	Rep. Ben Westlund	District 53. Testifies in support of SJR 38-A.
079	Rep. Monnes Anderson Rep. Westlund	Asks how bridges usually get a name.  Explains that the Transportation Commission generally names them.
092	Chair Doyle  Chair Doyle	Comments that there are quite high standards that must be met in order to have a bridge named after a person. Asks if there are family members in the area.
119	Rep. Westlund Jon Mangis	Comments on son of Mr. Barber. Director, Oregon Department of Veterans' Affairs. Testifies in support of SJR 38-A. Explains his request, at the direction of their advisory committee, to the Department of Transportation suggesting that the bridge be named after Barber. Comments on significance of contributions Barber made during his lifetime.
178	Jim Willis	Legislative Commission Chairman for American Legion in

		Oregon, and Vice-Chair, Governor's Advisory Committee to the Department of Veterans Affairs. States he is also speaking for the Veterans of Foreign Wars, the Disabled American Veterans, and the Military Order of the Purple Heart. Testifies in support of SJR 38-A.
235	Jon Chandler	Citizen. Testifies in support of SJR 38-A.
287	Chair Doyle	Closes the public hearing and opens a work session on SJR 38-A.
<b><u>SJR 38-A – WORK SESSION</u></b>		
290	<b>Rep. Flores</b>	<b>MOTION: Moves SJR 38-A be sent to the floor with a BE ADOPTED recommendation.</b>
	Rep. Backlund	Comments that it is not often that the legislature has the opportunity to do something like this; and supports the resolution.
303	Rep. Verger	Comments she watched the story about Colonel Barber on the History Channel and appreciated the wonderful presentation about the military, and also the testimony by John Chandler; strongly supports the resolution.
	Rep. Flores	Comments on the honor to Mr. Barber by having the bridge near his home a named after him.
		<b>VOTE: 6-0-1</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair Doyle</b>	<b>EXCUSED: 1 - Rep. Barnhart</b>
		<b>The motion CARRIES.</b>
		<b>REP. WESTLUND will lead discussion on the floor.</b>
332	Chair Doyle	Closes the work session on SJR 38-A and opens a public hearing on HJR 42.
<b><u>HJR 42 – PUBLIC HEARING</u></b>		
	Chair Doyle	Announces that amendments to HJR 42 are expected.
347	Michael Gillette	Member, Oregon Supreme Court. Testifies in opposition to HJR 42. This practice would follow the federal practice. Federal judges are appointed for life and the only check is Senate confirmation. Only impeachment can remove a federal judge. The check for Oregon judges is the ballot box. Does not believe this is an appropriate addition to the Oregon Constitution.
	Rep. Close Gillette	Asks how many of the sitting judges were appointed. States that two of the present judges first came to the court by election rather than by appointment.
	Rep. Close	Asks how many of the judges on the Court of Appeals were appointed.
	Gillette	Responds that to his recollection all the judges were first appointed. Adds that there has not been a contested election for a judge on the Court of Appeals in a very long time
<b>TAPE 36, A</b>		
038	Rep. Verger Gillette	Asks if most judges are on the ballot without opposition. Responds affirmatively. Comments on public not knowing who the Supreme Court is, lack of interest by the public, and on campaign costs.
070	Rep. Verger Gillette	Asks Gillette if he has made the case for confirmation. Responds that if the committee thinks the lack of opposition demonstrates there ought to be some other check in the process, one must keep in mind that confirmation is going to occur before the person does anything. Questions what information might be available to determine if that person is qualified will be of any

084 Rep. Monnes  
Anderson  
Gillette  
  
Chair Doyle

particular value. Suggests that confirmation might make sense after 10 years of service because there would be a track record. Asks how other western states appoint or elect their judges.

Responds that to his knowledge every state in the west elects their judges and does not know of any state that has Senate confirmation.

Closes the public hearing on HJR 42 and opens a public hearing on HB 3093.

**HB 3093 – PUBLIC HEARING**

121 Les Helgeson Testifies in support of HB 3093 (**EXHIBIT A**).

160 Rep. Monnes  
Anderson  
Helgeson Asks Helgeson to explain the incidents he has mentioned.

195 Chair Doyle  
Helgeson Explains history of incidents.  
Asks if this adds another exemption to the Public Records Law. Responds he believes it does.

213 Rep. Verger  
  
Helgeson Comments on protective laws. Asks if harassment by email has been addressed.  
States this bill is intended to expand the law to prohibit contact by email.

291 Rep. Verger  
Helgeson Comments on experiences as elected official.  
Responds that the bill does not prohibit disclosure of the email; it just prevents the disclosure of the person’s address or email address.

Chair Doyle Advises members that he has requested Legislative Counsel to explain the bill.

Helgeson Comments that the changes in the bill go beyond what he requested; he only asked for the email address nondisclosure.

Chair Doyle Asks how the exemption on email addresses fit into the other exemptions and how it would be applied.

311 Greg Chaimov  
  
Rep. Verger  
Chaimov Legislative Counsel. Explains general purpose of the Public Records Law. The general rule is that a public record is subject to inspection by the public, but there are dozens of exceptions, often to protect an individual’s privacy. The request in the measure is to protect the common means of communication, as well as the phone numbers and addresses.  
Asks whether this includes public officials, even for their safety.  
Responds that generally speaking, the exemption from disclosing the address, phone number, etc. does not apply to public officials unless one can show there is personal danger.

366 Rep. Monnes  
Anderson  
Chaimov Asks how a email address is different than a telephone number.  
  
Comments that as a state agency director, it would not be fundamentally different for him to withhold an electronic mail address.

390 Rep. Monnes  
Anderson  
Chaimov Comments it is easy to get a person’s email address.  
  
Clarifies that the information that could be withheld would be the personal email address. States that HB 3093 would give the public body the authority to not provide the personal email address. Adds that there should be no technical fixes needed to implement the law.

406 Chair Doyle Comments that Section 2 and Section 3, lines 43 and 44 on page

	Chaimov	5 of HB 3093 provide the exemptions. Asks why Section 1 alone does not provide the exemption. Explains differences in Sections 1, 2, and 3 of HB 3093. Comments on balancing criteria. Section 1 has to do with personal safety.
<b>TAPE 35, B</b>		
	Chair Doyle	Asks if a email address that is received by someone by means of a copy is considered a public record.
025	Chaimov	Responds that it is most likely a public record. Adds that if it were an electronic mail message directed to a member of the legislative assembly, it most likely would not be a public record. But members of the legislative assembly have a somewhat broader exception than other public officials.
034	Rep. Verger	Asks if the information that is required when someone signs up to speak is a public record, or is it a record only for the person in charge of the meeting.
	Chaimov	Responds it is a public record.
	Rep. Monnes	Asks what a public record is.
	Anderson	
	Chaimov	Responds that whether or not government requires that certain information be provided before one testifies, if the person puts down his/her name, address, telephone number, and email address and it is provided as part of the information in the testimony, that document is a public record.
075	Rep. Backlund	Comments that the bill does not establish new precedent; it expands on the current law.
	Chaimov	States that adding email addresses to the list of information that a public body need not disclose about employees and volunteers is not a significant policy choice. Whether to allow a public body to withhold information about witnesses at hearings or public meetings, a person could argue it is enough different policy decision to be considered significant.
086	Chair Doyle	Asks what the penalty is for disclosure.
	Chaimov	Responds that the Public Records Law does not deal with what happens if a public body discloses information that it is required to keep confidential.
	Chair Doyle	Advises Helgeson he should discuss the issues that have been brought up the committee members.
112	Chair Doyle	Closes the public hearing on HB 3093 and opens a public hearing on SB 135-A.

**SB 135-A – PUBLIC HEARING**

135	Tom Wrosch	Testifies in support of SB 135-A ( <b>EXHIBIT B</b> ).
159	Rep. Close	Asks how other states provide the electronic signatures.
	Wrosch	Responds that they do not have a plan ready today. Comments on systems in other states and the uncertainty of technology. States that the administrative rules process would put this before the public.
	Rep. Close	Comments on the importance of the system being done right and would like on the record what the plan is.
	Rep. Verger	Asks if certain individuals would still be notaries public.
	Wrosch	Explains that the same process applies for the name and certification. Explains how some states have envisioned the system working.

258 Rep. Flores Asks if they cannot go forward with approval of the program without approval by the legislature.  
Wrosch Responds affirmatively.  
Chair Comments he assumes they can still put together a plan.  
Wrosch States they could put a plan together, some concept of how it might work.  
Chair Doyle Suggests that Wrosch talk to members who have the concerns about the bill.

282 Chair Doyle Closes the public hearing on SB 135-A and opens a public hearing on HB 3351.

**HB 3351 PUBLIC HEARING**

305 Chair Doyle Informs members that HB 3351 was introduced at the request of the Oregon Sheriffs Association, and their representative is in a Senate committee hearing.

318 Tom Wrosch Secretary of State's office. States that their office is neutral on the bill but has a few concerns with the language on page 2, lines 5 and 6. Suggests there should be a standard that the notaries can be held to.

341 Chair Doyle Asks if they would have separate procedures for notaries who go into a correctional facility to sign off on documents, and if they might have rules on working with the correctional facilities and Sheriffs Association to determine the methods to assure the people are properly identified by the notaries.  
Wrosch States they have not done rules on identification because it has been in statute, and the means of identification varies depending on the type of facility. Adds that it is possible they could do an administrative rule but he is not sure their authority extends that far.

410 Rep. Verger Asks if someone on staff at a correctional facility would be a notary.  
Wrosch Responds generally there is. Comments on differences in facilities. Believes the intent is to allow the notary to use the records in the facility.

**TAPE 36, B**

021 Rep. Flores Comments on requirements of notaries. Asks if photo identification can be evidence.  
Wrosch Responds that photo identification can be used. Explains what meets the requirement of satisfactory evidence.

044 Rep. Flores Asks if an identification number would be acceptable.  
Wrosch Responds that that is the question; he does not know what he would instruct the notaries to accept or enter into the journal.

054 Chair Doyle Closes the public hearing and opens a work session on HB 3351.

**HB 3351 – WORK SESSION**

068 Rep. Close Asks Rep. Flores to give her opinion on the bill.  
Rep. Flores Responds that if what they are trying to do is add another component of acceptable identification, she does not have a problem with it.

058 Rep. Flores **MOTION: Moves HB 3351 to the floor with a DO PASS recommendation.**

60 **VOTE: 6-0-1**  
**EXCUSED: 1 - Rep. Barnhart**  
Chair Doyle **Hearing no objection, declares the motion CARRIED.**  
**REP. FLORES will lead discussion on the floor.**

Chair Doyle

Closes the work session on HB 3351 and adjourns meeting at 2:32 p.m.

**EXHIBIT SUMMARY**

**A – HB 3093, prepared statement, Les Helgeson, 7 pp**

**B – SB 135, prepared statement, Tom Wrosch, 2 pp**