

CONFERENCE COMMITTEE ON HB 3120B

July 29, 2003 Hearing Room D

9:00 AM Tapes 1 - 2

MEMBERS PRESENT: **Rep. Bill Garrard, Chair**
 Rep. Mitch Greenlick
 Rep. Cliff Zauner
 Sen. Tony Corcoran
 Sen. Bruce Starr

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 Linda K. Gatto, Committee Assistant

MEASURE HEARD: **HB 3120B 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 1, A		
004	Chair Garrard	Calls the meeting to order at 9:10 a.m. and opens a work session on HB 3120B. Calls invited testimony regarding language in Section 14 of HB 3120B.
<u>HB 3120B WORK SESSION</u>		
012	Diana Godwin	Private Administrative Law Attorney. Explains that all licensing boards have extensive administrative rules that detail every type of offense regarding disciplinary actions. Provides details on the types of charges.
035	Godwin	Refers to and reads ORS 670.280, the general statute which states it must be a conviction and a logical nexus. Explains that Section 14 further amends the statute to include conduct. Summarizes that "conduct" gives too much power to the licensing board and is in the eye-of-the-beholder.
087	Sen. Corcoran	Asks who the originator of the amendment is.
091	Godwin	Answers the Department of Justice, the Attorney General's office.
094	Ted Reutlinger	Legislative Counsel. States that Sections 14 and 15 are amendments that were the result of judicial opinion that various licensing boards could not impose discipline on licensees because the conduct was not related to the persons licensed activity.
109	Godwin	Adds that she has no objection to Section 15.
111	Philip Schradle	Special Counsel to the Attorney General. Informs that this bill was proposed because of the cases Dearborn vs. Real Estate Agency and Curly vs. Real Estate Agency. Provides information on the criteria used in the court's interpretation.
154	Schradle	Concludes that the intent of these amendments is to allow licensing agencies to consider activity by licensee's not directly in the course of the license activity that is substantially related to the fitness and ability to practice the licensed activity.

165	Sen. Corcoran	Explains Ms. Godwin's concern is that it opens "conduct" as a rationale for denying a license and that the language is too broad.
180	Rep. Greenlick	Refers to sub 2 lines 1-5, page 15. Asks is there a substantive change or is this housekeeping.
183	Reutlinger	Responds this is housekeeping because the form and style of the legislature now uses "may not" instead of "shall not".
200	Sen. Corcoran	Asks is the intent to allow a commission to look at issues other than specific job-related issues.
204	Reutlinger	Responds affirmatively explaining it was based on those cases.
213	Sen. Corcoran	Asks is the limitation "substantially related to the fitness and ability of the applicant to engage in the activity".
226	Reutlinger	Responds that a board or commission would have to establish a connection between the conduct and the fitness and ability of the person to engage in the licensed activity.
237	Sen. Corcoran	Asks if this amendment would have fixed the Dearborn case.
244	Schradle	Responds it would be questionable. Explains that in the Dearborn case the Supreme Court determined it was private acts, unrelated to his fitness or ability to perform real estate activity. Adds that in the Curly case it would have because the activity was related to the standards of practice in the real estate industry.
278	Godwin	Comments that licensing boards over-react and the language is objective, dependent on the eye-of-the-beholder.
288	Sen. Starr	Asks does this open up individuals to crimes of the past, prior to their career.
310	Schradle	Responds that all licensing board orders are subject to judicial review. Comments that the determination would be in the present tense as it questions "fitness to practice". Acknowledges that at some point as you move back in time circumstances would become unsupportable.
340	Godwin	Notes that in a conviction "all intervening circumstances" are taken into account. Expresses concern about time limits.
356	Sen. Starr	Asks if a statute of limitations would make her more comfortable.
359	Godwin	Responds it is the term "conduct" that does not have to be illegal or a civil wrong that is of concern.
390	Tom Gallenger	Urban Development Coalition. States that Section 14's issue was not their concern. Explains it was the business registry clause that they were concentrating on.
410	Chair Garrard	Asks if there are any thoughts on making changes to Section 14.
412	Rep. Zauner	Comments that he has concerns about the language being too broad.
424	Sen. Corcoran	States that this is an important bill and he is open to narrowing the language.
435	Rep. Greenlick	Expresses that he is comfortable with the language.
TAPE 2, A 007	Sen. Starr	Suggests eliminating line 8, page 15 "or impose discipline" and asks if that would make a difference.
015	Godwin	Responds if the committee was considering amendments, suggests deleting lines 7 to 10 of Section 14.
025	Rep. Greenlick	Asks have there been actual cases where licensing boards have denied someone based solely on conduct.
030	Godwin	Responds that she does not have knowledge of that but she does represent two people who were brought up for proceedings because of rudeness.

059	Schradle	Reiterates that the intent “is substantially related to the fitness to practice”.
069	Rep. Greenlick	Asks could that phrase be put in the line above. Is the concern about conduct or about limiting the circumstances in which conduct is considered.
086	General Conversation	Discussion regarding whether to consider specificity as to intent.
114	Rep. Zauner	MOTION: Moves to ADOPT HB 3120B-8 amendments dated 07/10/03, (EXHIBIT A).
119		VOTE: 5-0
	Chair Garrard	Hearing no objection, declares the motion CARRIED.
123	Chair Garrard	Requests that Rep. Greenlick and Sen. Starr meet with Ms. Godwin and Mr. Schradle to continue work on this concern.
131	Chair Garrard	Adjourns the meeting at 9:37.

EXHIBIT SUMMARY

A. HB 3120-B8 amendments dated 7/10/03, staff, 2 pp