

**SENATE COMMITTEE ON**  
**AGRICULTURE AND NATURAL RESOURCES**

March 05, 2003 Hearing Room HR B  
8:30 A.M. Tapes 29 - 30

**MEMBERS PRESENT:**        **Sen. Frank Shields, Chair**  
                                      **Sen. Roger Beyer, Vice-Chair**  
                                      **Sen. Tony Corcoran**  
                                      **Sen. Bill Fisher**

**STAFF PRESENT:**         **Judith Callens, Committee Administrator**  
                                      **Patricia Nielsen, Committee Assistant**

**MEASURE/ISSUES HEARD:**        **HB 2200 – Public Hearing and Work Session**  
  **HB 2033A – 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 29, A</b>		
005	Chair Shields	Calls the committee to order at 8:33 a.m. Opens a public hearing on HB 2200.
<b><u>HB 2200 – PUBLIC HEARING</u></b>		
010	Judith Callens	Committee Administrator. Presents overview of HB 2200 and HB2200-1 amendments (2-21-03) ( <b>EXHIBIT A</b> ). Refers to ORS 30.270 ( <b>EXHIBIT B</b> ).
035	Brendan McCarthy	Legislative Counsel's Office. Raises constitutional concern. Discusses restrictions on lawsuits against the state under the Oregon Tort Claims Act. Describes restriction on capping liability in tort claims. Suggests the legislation restricts a remedy and may be unconstitutional action. Explains exemption from liability for firefighters.
110	Ian Whitlock	Deputy Attorney General, Oregon Department of Justice. Discusses further the constitutional concerns: <ul style="list-style-type: none"><li>• Guaranty of jury trial may be restricted</li><li>• Remedies clause may be violated</li></ul> Describes case law applicable in firefighting situations and restriction of lawsuit for ordinary negligence. <ul style="list-style-type: none"><li>• <u>Wagner v. City of Portland</u> (1902)</li></ul>
160	Sen. Fisher	Asks about firefighting organizations existing in 1857.
165	Whitlock	Describes and discusses governmental immunity.
175	Sen. Corcoran	Suggests moving the bill forward and waiting for a suit if one is filed. Asks about increased protection if the measure passes.
195	Whitlock	Explains the statute codifies the accepted common law. Discusses specific cases of discretionary acts of governing body during firefighting.
205	McCarthy	Points out government officials are already immune from claims arising from discretionary acts. Continues this covers individual

		firefighters.
220	Sen. Corcoran	Asks whether clarifying language should be added.
230	McCarthy	Discusses increased coverage within present language.
235	Whitlock	Agrees and discusses case law.
250	Chair Shields	Summarizes.
270	Charlie Stone	Oregon Department of Forestry. Appears and testifies in favor of HB 2200 and HB 2200-1 amendments. Submits written testimony ( <b>EXHIBIT C</b> ).
280	Mike Dykzeul	Oregon Forest Industries Council (OFIC). Appears and testifies in favor of HB 2200 and HB 2200-1 amendments. Submits written testimony ( <b>EXHIBIT D</b> ).
290	Chair Shields	Closes public hearing on HB 2200. Opens work session on HB 2200.

**HB 2200 – WORK SESSION**

295	Sen. Beyer	<b>MOTION: Moves to ADOPT HB 2200-1 amendments dated 2/21/03.</b>
298		<b>VOTE: 4-0</b>
	Chair Shields	<b>Hearing no objection, declares the motion CARRIED.</b>
300	Sen. Beyer	<b>MOTION: Moves HB 2200 to the floor with a DO PASS AS AMENDED recommendation.</b>
303		<b>VOTE: 4-0</b>
	Chair Shields	<b>AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.</b>
		<b>SEN. BEYER will lead discussion on the floor.</b>
305	Chair Shields	Closes work session on HB 2200. Opens public hearing on HB 2033A.

**HB 2033A – PUBLIC HEARING**

330	Callens	Presents overview of HB 2033A.
340	Nick Furman	Administrator, Oregon Albacore Commission (OAC); Executive Director, Oregon Dungeness Crab Commission (ODCC). Testifies in favor of HB 2033A. Submits written testimony ( <b>EXHIBIT E</b> ).

**TAPE 30, A**

005	Furman	Continues.
035	Chair Shields	Asks about the amount of outstanding fees compared to the annual budget and whether the outstanding amounts impair the commissions from accomplishing their work.
040	Furman	Discusses the large discrepancy. Describes situation where the commodity companies are withholding the fees from fisherman but not passing them on to the commission.
060	Kay Brown	Oregon Department of Fish and Wildlife (ODFW). Testifies in favor of HB 2033 as an effective enforcement tool. Submits written testimony ( <b>EXHIBIT F</b> ). Discusses fees accumulated during fishing operations and Department's current limitations on debt collection.
090	Chair Shields	Closes public hearing on HB 2033A. Opens work session on HB 2033A.

**HB 2033A – WORK SESSION**

100	Sen. Beyer	<b>MOTION: Moves HB 2033A to the floor with a DO PASS recommendation.</b>
105		<b>VOTE: 4-0</b>
	Chair Shields	<b>AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.</b>

**SEN. CORCORAN will lead discussion on the floor.**  
Closes work session on HB 2033A. Adjourns the meeting at  
9:12 a.m.

**EXHIBIT SUMMARY**

- A – HB 2200, HB 2200-1 amendments (2-21-03), staff, 4 pp**
- B – HB 2200, ORS 30.270, staff, 1 p**
- C – HB 2200, written testimony, Charlie Stone, 2 pp**
- D – HB 2200, written testimony, Mike Dykzeul, 1 p**
- E – HB 2033A, written testimony, Nick Furman, 1 p**
- F – HB 2033A, written testimony, Kay Brown, 1 p**