

## SENATE COMMITTEE ON JUDICIARY

April 10, 2003  
8:00 A.M.

Hearing Room 343  
Tapes 93-95

**MEMBERS PRESENT:**     **Sen. John Minnis, Chair**  
                                  **Sen. Ginny Burdick, Vice-Chair**  
                                  **Sen. Ted Ferrioli**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Charles Starr**  
                                  **Sen. Vicki Walker**

**STAFF PRESENT:**       **Craig Prins, Counsel**  
                                  **Ann Martin, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 47 Public Hearing**  
                                  **SB 426 Public Hearing**  
                                  **SB 592 Public Hearing**  
                                  **SB 615 Public Hearing**  
                                  **SB 619 Public Hearing**  
                                  **SB 655 Public Hearing**  
                                  **SB 679 Public Hearing**  
                                  **SB 752 Public Hearing**  
                                  **SB 792 Public Hearing**  
                                  **SB 880 Public Hearing**

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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><u>TAPE, 93 A</u></b>		
002	Chair Minnis	Calls the meeting to order at 8:12 a.m. Opens a public hearing on SB 47.
<b><u>SB 47 PUBLIC HEARING</u></b>		
009	Craig Prins	Committee Counsel. Introduces SB 47 which delays imposition of interest on criminal judgments until July 1, 2007.
020	Paul Snider	Association of Oregon Counties. Testifies in support of SB 47.
040	Bradd Swank	State Court Administrator's Office. Testifies in support of SB 47.
083	Chair Minnis	Closes the public hearing on SB 47 and opens a public hearing on SB 426.
<b><u>SB 426 PUBLIC HEARING</u></b>		
100	Craig Prins	Committee Counsel. Introduces SB 426 which expands crime of assault in third degree.
105	Susan Schneider	City of Portland. Testifies in support of SB 426.
122	Chair Minnis	Closes the public hearing on SB 426 and opens a public hearing on SB 592.
<b><u>SB 592 PUBLIC HEARING</u></b>		
129	Craig Prins	Committee Counsel. Introduces SB 592 which creates crime of unlawful delivery of Salvia divinorum.
145	Chair Minnis	Closes the public hearing on SB 592 and opens a public hearing on SB 615.
<b><u>SB 615 PUBLIC HEARING</u></b>		
157	Craig Prins	Committee Counsel. Introduces SB 615 which revives certain

170	Deborah Holton	claims for childhood sexual abuse that are barred solely because statutes of limitations for claims have expired. Oregon Coalition Against Domestic and Sexual Violence. Submits testimony and testifies in support of SB 615 ( <b>EXHIBIT A</b> ).
209	Chair Minnis	Closes the public hearing on SB 615 and opens a public hearing on SB 619.
<b><u>SB 619 PUBLIC HEARING</u></b>		
210	Craig Prins	Committee Counsel. Introduces SB 619 which directs court to instruct jury to determine that defendant should not receive death sentence when jury finds that defendant is person with mental retardation.
226	Chair Minnis	Closes the public hearing on SB 619 and opens a public hearing on SB 655.
<b><u>SB 655 PUBLIC HEARING</u></b>		
228	Craig Prins	Committee Counsel. Introduces SB 655 which creates crime of unlawful trafficking in communication or access devices.
240	Ted Hughes	Testifies in support of SB 655.
260	Chair Minnis	Closes the public hearing on SB 655 and opens a public hearing on SB 679.
<b><u>SB 679 PUBLIC HEARING</u></b>		
260	Craig Prins	Committee Counsel. Introduces SB 679 which creates crime of unlawful tobacco sales to persons under 21 years of age.
275	Chair Minnis	Closes the public hearing on SB 679 and opens a public hearing on SB 752.
<b><u>SB 752 PUBLIC HEARING</u></b>		
277	Craig Prins	Committee Counsel. Introduces SB 752 which creates Sexual Assault Victims' Emergency Medical Response Fund.
285	Deborah Holton	Oregon Coalition Against Domestic and Sexual Violence. Submits testimony and testifies in support of SB 752 ( <b>EXHIBIT B</b> ).
310	Chair Minnis	Closes the public hearing on SB 752 and opens a public hearing on SB 792.
<b><u>SB 792 PUBLIC HEARING</u></b>		
313	Craig Prins	Committee Counsel. Introduces SB 792 which provides that proof by owner of residential building that all original contractors were paid by owner is complete defense to any construction lien claimed against residential building.
333	Chair Minnis	Closes the public hearing on SB 792 and opens a public hearing on SB 880.
<b><u>SB 880 PUBLIC HEARING</u></b>		
336	Craig Prins	Committee Counsel. Introduces SB 880 which establishes amount of supersedeas undertaking required for stay of certain judgments if judgment is against product manufacturer that is making payments to state under Master Settlement Agreement (MSA) or related legislation. Discusses -2 and -3 amendments ( <b>EXHIBITS C &amp; D</b> ).
362	Jim Gardner	Attorney, Gardner and Gardner. Represents Philip and Morris. Submits testimony and testifies in support of SB 880 ( <b>EXHIBITS E &amp; F</b> ).
<b>TAPE 94, A</b>		
002	Gardner	Continues his testimony in support of SB 880.

059	Sen. Walker	States that since the tobacco companies have lied to the American people then why should they be concerned that Philip Morris may go bankrupt.
064	Gardner	Explains the consequences to the state and the MSA.
076	Sen. Ringo	Asks why they cannot disclose the state of their finances.
083	Gardner	Answers that they have been disclosed to the Attorney General's office.
085	Sen. Ringo	Asks about the Crime Victim's Fund and how it relates to this legislation.
099	Gardner	Says that passage of this legislation would increase the chance that payments would be made toward the Crime Victim's Fund.
126	Chuck Tauman	Attorney. Defends victims of tobacco companies. Testifies in opposition to SB 880. Says that if Philip Morris does go bankrupt and if the bond is limited then Oregon and the crime victims will suffer.
231	Chair Minnis	Wonders if they cannot secure the bond and are going bankrupt, then wouldn't that affect the MSA.
275	Sen. Burdick	Asks if he is warning about the situation if the tobacco companies went bankrupt.
286	Tauman	Says that is correct and explains.
349	Sen. Walker	Inquires about financial records of Philip Morris. Wonders if Attorney General's Office has seen those.
375	Tauman	Says that he does not believe that Philip Morris has shared their financial statements.
<b>TAPE 93, B</b>		
005	Sen. Walker	Inquires as to why someone doesn't do a judgment debtor exam of Philip Morris.
007	Tauman	Says that is an excellent idea.
015	Sen. Burdick	Asks if there was a request to lower the bond in the Illinois case.
018	Tauman	Responds that the judge filed a motion to the judge who imposed the bond to lower the bond.
040	Sen. Burdick	Asks if typically the trial court awards are reduced on appeal.
044	Tauman	Responds with discussion of <i>Williams v. Philip Morris</i> .
061	Sen. Ringo	Inquires about condition of Philip Morris's finances.
072	Tauman	Points out that they are doing some guessing and the committee needs to decide who has the burden of proof.
085	Chair Minnis	Mentions that the state is making revenue from the MSA.
094	Tauman	Discusses how state had to expend a tremendous amount of resources on victims of tobacco companies.
100	Chair Minnis	Tells that his mother died of lung cancer and never blamed the cigarette company. Feels that lawyers have made millions on these victims.
117	Tauman	Discusses his clients and how they admitted their responsibility.
145	Chair Minnis	Says that he "respectively disagrees" about the motivation of the lawyers.
149	Sen. Burdick	Asks about the bond issue.
157	Tauman	Says that the court should be able to eliminate the bond. Discusses the compromise made in Illinois.
193	Chair Minnis	Discusses the enforcement of judgments.
233	Tauman	Mentions that under oath Philip Morris admitted to raising their prices to pay for the MSA.
252	Sen. Ringo	Asks what information he has pertaining to Phillip Morris's finances.
255	Tauman	Reports that there is a limited amount of information that comes

		from the annual report from the parent company of Philip Morris.
276	Sen. Ringo	Asks if he has the 2001 financial report of Philip Morris.
279	Tauman	Answers, yes.
294	Sen. Ringo	Says that “the fact that they’re raising bankruptcy as a rationale for the bill may be the best argument against the bill.”
300	Sen. Walker	Notes that bankruptcy may not be a bad idea for Philip Morris.
325	Pete Shepherd	Deputy Attorney General. Submits testimony and testifies in opposition to SB 880 ( <b>EXHIBIT G</b> ). Discusses financial implications of the bill.
374	Sen. Burdick	Wonders if they oppose the -2 amendments.
376	Shepherd	Says yes, thinks \$1 million is too small of a bond.
433	Chair Minnis	States that the plaintiff’s counsel in the Illinois proceeding is going to receive \$1.775 billion dollars. Asks if that is a contingency fee.
440	Shepherd	Says that he thinks that was a determination by the trial judge in Illinois.
<b>TAPE 94, B</b>		
003	Shepherd	Concludes his testimony in opposition to SB 880. Discusses Illinois case and how it is different from the cases in Oregon.
165	Sen. Burdick	Asks about a level of cap that the Attorney General might support.
169	Shepherd	Says that he doesn’t have a specific number to suggest today.
161	Sen. Burdick	Asks if Oregon laws are adequate to allow judges to reduce a bond.
184	Shepherd	Answers, yes, under current law a trial judge has the ability to reduce the bond.
188	Sen. Walker	Discusses bankruptcy of Philip Morris.
197	Shepherd	Says that the certain thing about bankruptcy is it will delay payment.
203	Sen. Walker	Asks if he has seen Philip Morris’s financial statements.
205	Shepherd	Says that the Oregon Attorney General’s office has not received that information.
232	Sen. Walker	Asks if the state has ever considered requesting a judgment debtor exam of Philip Morris.
234	Shepherd	Answers that they have not had any need to do that.
255	Sen. Ringo	Asks if they would need to know Philip Morris’s financial situation to proceed with this bill.
261	Shepherd	Responds that that would be important to know.
275	Sen. Ringo	Asks what financial information they have on Philip Morris now.
277	Shepherd	Says that they only have public information on Philip Morris.
289	Sen. Ringo	Asks how the committee would know what figure to put in this bill without the financial information from Philip Morris.
292	Shepherd	Emphasizes that they need that information.
299	Chair Minnis	Discusses bill.
327	Shepherd	Explains what would happen in bankruptcy proceeding of Philip Morris.
355	Gardner	Responds to key points.
<b>TAPE 95, A</b>		
003	Gardner	Concludes his discussion in support of SB 880.
049	Sen. Ferrioli	States that we depend on the money from tobacco settlement agreements.
075	Chair Minnis	Closes the public hearing on SB 880 and adjourns the meeting at 10:30 a.m.

## **EXHIBIT SUMMARY**

- A – SB 615, written testimony, submitted by Deborah Holton, 1 pg.**
- B – SB 752, written testimony, submitted by Deborah Holton, 1 pg.**
- C – SB 880, -2 amendments, submitted by staff, dated 4/9/03, 1 pg.**
- D – SB 880, -3 amendments, submitted by staff, dated 4/9/03, 1 pg.**
- E – SB 880, newspaper article from Wall Street Journal, submitted by Jim Gardner, 3 pgs.**
- F – SB 880, opinion from Covington & Burling Law Firm, submitted by Jim Gardner, 4 pgs.**
- G – SB 880, letter from Philip Morris Co., submitted by Pete Shepherd, 2 pgs.**