

SENATE COMMITTEE ON JUDICIARY

April 28, 2003
8:00 A.M.

Hearing Room 343
Tapes 110-111

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**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **Public Hearings (Tap-Tap)**
 HB 2319 Public Hearing and Work Session
 HB 2322 Public Hearing and Work Session
 HB 2314 Public Hearing
 HB 2316 Public Hearing
 HB 2318 Public Hearing
 SB 752 Public Hearing and Work Session
 SB 90 Work Session
 SB 189 Work Session
 SB 64 Work Session
 SB 217 Work Session
 SB 743 Work Session
 SB 342 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.

TAPE/#	Speaker	Comments
Tape 110, A 003	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens public hearings on HB 2057A, HB 2059A, HB 2060A, HB 2063A, HB 2064, HB 2086A, HB 2095A, HB 2099, HB 2101, HB 2111A, HB 2113A, HB 2114A, HB 2150A, HB 2206A, HB 2207A, HB 2221A, HB 2275A, HB 2276A, HB 2284, HB 2314, HB 2316, HB 2318, HB 2422, HB 2425A, HB 2449, HB 2594, HB 2682A, HB 2727, HB 2736, HB 2761A, HB 2770A, HB 2866, HB 2873A, HB 2885, HB 3107A, HB 3317, HB 3351, HB 3361, HB 3366, HB 3370, HB 3371, and HB 3372A.
022	Chair Minnis	Closes the public hearings on the above listed bills and opens a public hearing on HB 2319.
<u>HB 2319 PUBLIC HEARING</u> 029	Greg Chaimov	Legislative Counsel. Submits testimony and testifies in support of HB 2319 that makes technical corrections to statutes relating to legislative committees (EXHIBIT A).
057 <u>HB 2319 WORK SESSION</u>	Chair Minnis	Closes the public hearing on HB 2319 and opens a work session.

062	Sen. Ringo	<p>MOTION: Moves HB 2319 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.</p> <p>VOTE: 5-0-1</p> <p>EXCUSED: 1 - Sen. Burdick</p>
066	Chair Minnis	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. WALKER will lead discussion on the floor.</p>
074	Chair Minnis	<p>Closes the work session on HB 2319 and opens a public hearing on HB 2322.</p>
<u>HB 2322 PUBLIC HEARING</u>		
075	Greg Chaimov	<p>Legislative Counsel. Introduces HB 2322 that adds certain existing sections of law to ORS chapter 107.</p>
090	Chair Minnis	<p>Closes the public hearing on HB 2322 and opens a work session.</p>
<u>HB 2322 WORK SESSION</u>		
092	Sen. Ringo	<p>MOTION: Moves HB 2322 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.</p> <p>VOTE: 5-0-1</p> <p>EXCUSED: 1 – Sen. Burdick</p>
098	Chair Minnis	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. CHARLES STARR will lead discussion on the floor.</p>
103	Chair Minnis	<p>Closes the work session on HB 2322 and opens a public hearing on HB 2314.</p>
<u>HB 2314 PUBLIC HEARING</u>		
105	Greg Chaimov	<p>Legislative Counsel. Introduces HB 2314 that corrects references to laws relating to trusts.</p>
114	Chair Minnis	<p>Closes the public hearing on HB 2314 and opens a public hearing on HB 2316.</p>
<u>HB 2316 PUBLIC HEARING</u>		
117	Greg Chaimov	<p>Legislative Counsel. Introduces HB 2316 that repeals law that makes abolishment of Board of Trustees of Children’s Trust Fund contingent upon certain conditions.</p>
130	Chair Minnis	<p>Closes the public hearing on HB 2316 and opens a public hearing on HB 2318.</p>
<u>HB 2318 PUBLIC HEARING</u>		
132	Greg Chaimov	<p>Legislative Counsel. Introduces HB 2318 that makes technical corrections to statutes relating to records.</p>
149	Chair Minnis	<p>Closes the public hearing on HB 2318 and opens a public hearing on SB 752.</p>
<u>SB 752 PUBLIC HEARING</u>		
154	Craig Prins	<p>Committee Counsel. Introduces SB 752 that creates sexual assault victims’ emergency medical response fund, and the -2 amendments (EXHIBIT B).</p>
170	Chair Minnis	<p>Closes the public hearing on SB 752 and opens a work session.</p>
<u>SB 752 WORK SESSION</u>		
176	Hardy Myers	<p>Attorney General. Testifies in support of SB 752.</p>
223	Phyllis Barkhurst	<p>Assistant Attorney General. Testifies in support of SB 752.</p>
261	Chair Minnis	<p>Asks if testing for paternity is available in this kind of sexual assault.</p>
272	Barkhurst	<p>Says, no.</p>
306	Vice Chair Burdick	<p>MOTION: Moves to ADOPT SB 752-2 amendments dated 4/18/03.</p> <p>VOTE: 5-0-1</p> <p>EXCUSED: 1 - Sen. Ferrioli</p>

309	Chair Minnis	Hearing no objection, declares the motion CARRIED .
317	Vice Chair Burdick	MOTION: Moves SB 752 to the floor with a DO PASS AS AMENDED recommendation and a letter be sent to the Senate President requesting the referral to the JOINT COMMITTEE on WAYS and MEANS be rescinded.
		VOTE: 5-0-1
		EXCUSED: 1 - Sen. Ferrioli
320	Chair Minnis	Hearing no objection, declares the motion CARRIED .
		SEN. MINNIS will lead discussion on the floor.
325	Chair Minnis	Closes the work session on SB 752 and opens a work session on SB 90.
<u>SB 90 WORK SESSION</u>		
328	Craig Prins	Committee Counsel. Introduces SB 90 that increases penalty to speed racing, and the -2 amendments (EXHIBIT C). Says this bill will need to go to the Joint Ways and Means Committee. Discusses the fiscal impact statement.
426	Sen. Walker	Asks where these convictions are coming from.
432	Prins	Says Lane County has had only four convictions, but Multnomah, Clackamas, Washington, and Josephine Counties have large numbers of convictions.
TAPE 111, A		
035	Vice Chair Burdick	MOTION: Moves to ADOPT SB 90-2 amendments dated 4/16/03.
		VOTE: 4-0-2
		EXCUSED: 2 - Sen. Ferrioli and Sen. Ringo
038	Chair Minnis	Hearing no objection, declares the motion CARRIED .
040	Vice Chair Burdick	MOTION: Moves SB 90 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the JOINT committee on WAYS and MEANS.
		VOTE: 4-0-2
		EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo
044	Chair Minnis	Hearing no objection, declares the motion CARRIED .
047	Chair Minnis	Closes the work session on SB 90 and opens a work session on SB 189.

SB 189 WORK SESSION

049	Craig Prins	Introduces SB 189 that creates offense of organizing speed racing event, and the -1 amendments (EXHIBIT D).
078	Vice Chair Burdick	Asks if there are current laws against organized racing.
080	Prins	Explains the way the current statute reads.
099	Vice Chair Burdick	MOTION: Moves to ADOPT SB 189-1 amendments dated 3/5/03.
		VOTE: 4-0-2
101	Chair Minnis	EXCUSED: 2 - Sen. Ringo, Sen. Ferrioli
102	Vice Chair Burdick	Hearing no objection, declares the motion CARRIED.
		MOTION: Moves SB 189 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-2
		EXCUSED: 2 - Sen. Ringo, Sen. Ferrioli
105	Chair Minnis	Hearing no objection, declares the motion CARRIED.
		SEN. MINNIS will lead discussion on the floor.
111	Chair Minnis	Closes the work session on SB 189 and opens a work session on SB 64.

SB 64 WORK SESSION

128	Bill Joseph	Committee Counsel. Introduces SB 64 that eliminates intestate share of certain descendants of grandparents of decedents, and the -3 amendments (EXHIBIT E).
145	Vice Chair Burdick	MOTION: Moves to ADOPT SB 64-3 amendments dated 4/21/03.
		VOTE: 4-0-2
		EXCUSED: 2 - Sen. Ringo, Sen. Ferrioli
154	Chair Minnis	Hearing no objection, declares the motion CARRIED.
155	Vice Chair Burdick	MOTION: Moves SB 64 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-2
		EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo
167	Vice Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
173	Chair Minnis	Closes the work session on SB 64 and opens a work session on SB 217.

SB 217 WORK SESSION

178	Warren Deras	Department of Justice. Introduces SB 217 that provides that when Director of Division of State Lands has been appointed personal representative for person who dies intestate and without heirs, director must immediately petition for appointment of successor personal representative if it is determined that no part of estate will escheat to state (EXHIBIT F), and the -1, -2, and -3 amendments (EXHIBITS G-I).
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TAPE 110, B

041	Sen. Walker	Says she has concerns about taking a possible inheritance away from long- <i>lost</i> relatives.
054	Sen. Starr	Says he agrees with Sen. Walker.
059	Vice Chair Burdick	Says she likes the amendments, and believes that the intent is much more in line with wanting to put their money into some public purpose.
074	Sen. Ringo	Says he prefers that heir ship remain as it is.
081	Chair Minnis	Explains his understanding of the intent of the -2 amendments.

120	Matt Markee	Brandenberg & Davis. Testifies in opposition to the -2 and -3 amendments.
167	Deras	Discusses the -3 amendments. Says this amendment eliminates the incentive for fraud.
239	Chair Minnis	Talks about the fee structure in the -3 amendments.
245	Deras	Says the more complicated the estate, the higher the fee.
260	Chair Minnis	Asks if a private attorney would receive the kind of fee that a search firm does.
265	Deras	Says the probate court would have to approve the attorney's fee.
267	Chair Minnis	Concludes that a licensed attorney would not get near the fee that a search firm would get.
268	Deras	Clarifies that the attorney for the personal representative would not, but that there is no regulation on the attorney representing heirs.
276	Sen. Ringo	Asks why the current fee schedule encourages fraud.
283	Deras	Gives an example. Says the level of fees at 30 to 50 percent encourages fraud.
408	Chair Minnis	Closes the work session on SB 217 and opens a work session on SB 743.
<u>SB 743 WORK SESSION</u>		
415	Bill Joseph	Committee Counsel. Introduces SB 743 that extends tort liability coverage through Oregon Department of Administrative Services to private community care providers that provide services to persons with developmental disabilities or mental illness, and the -1 amendments (EXHIBIT J).
453	Vice Chair Burdick	MOTION: Moves to ADOPT SB 743-1 amendments dated 3/27/03.
		VOTE: 6-0
455	Chair Minnis	Hearing no objection, declares the motion CARRIED.
460	Vice Chair Burdick	MOTION: Moves SB 743 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the JOINT COMMITTEE on WAYS and MEANS.
		VOTE: 6-0
463	Chair Minnis	Hearing no objection, declares the motion CARRIED.
466	Chair Minnis	Closes the work session on SB 743 and opens a work session on SB 342.

SB 342 WORK SESSION

473	Craig Prins	Introduces SB 342 that provides that for purposes of crime of possession of controlled substance person possesses controlled substance if person intentionally consumes controlled substance and certain other circumstances are present.
TAPE 111, B		
029	Brian Delashmutt	Oregon Council of Police Associations. Testifies in support of SB 342.
051	Sen. Ferrioli	Says there are more ways to ingest marijuana than just smoking it.
063	Delashmitt	Explains that the statute only states that it includes smoking.
071	Sen. Ringo	Asks how a school is to know about the consumption of marijuana.
077	Delashmutt	Says he understands that there is a test available.
083	Prins	Explains there are trained experts that can identify usage.
094	Sen. Ringo	Asks how in the practical sense this is going to work.
098	Chair Minnis	Explains his understanding of the required identification process.
108	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 342.
134	Chair Minnis	Believes that this would not preclude administrative process by the school.
165	Sen. Ringo	Asks if there should be a legal mechanism to handle a child stoned at school.
170	Skye	Says their biggest concern is placing a violation on a youth's record and the implications it would have.
180	Prins	Explains the juvenile status.
191	Sen. Ferrioli	Discusses his support of SB 342.
211	Sen. Walker	Disagrees. Says this bill applies to people up to the age of 21, and a record cannot be expunged after the age of 18.
234	Delashmutt	Explains why the age of 21 was decided on.
251	Chair Minnis	Talks about a discussion held with several school administrators regarding the drug issue.
266	Delashmutt	Talks about examples given to him.
280	Vice Chair Burdick	MOTION: Moves SB 342 to the floor with a DO PASS recommendation.
282	Sen. Walker	Believes that this bill is going overboard.
290	Sen. Ringo	Expresses concern that this bill may not send the right message.
301	Vice Chair Burdick	Says she approves of the way this statute would be used.
325		VOTE: 5-1 AYE: 5 – Burdick, Ferrioli, Ringo, Starr C., Minnis NAY: 1 - Walker
327	Chair Minnis	The motion CARRIES. SEN. BURDICK will lead discussion on the floor.
330	Chair Minnis	Closes the work session on SB 342 and adjourns the meeting at 9:55 a.m.

EXHIBIT SUMMARY

- A – HB's 2314, 2316, 2318, 2319, 2322, written testimony submitted by Greg Chaimov, 2 pp
- B – SB 752, -2 amendments submitted by staff, 1 p
- C – SB 90, -2 amendments submitted by staff, 1 p

D – SB 189, -1 amendments submitted by staff, 1 p
E – SB 64, -3 amendments submitted by staff, 8 pp
F – SB 217, written testimony submitted by Warren Deras, 16 pp
G – SB 217, -1 amendments submitted by staff, 2 pp
H – SB 217, -2 amendments submitted by staff, 2 pp
I – SB 217, -3 amendments submitted by staff, 2 pp
J – SB 743, -1 amendments submitted by staff, 1 p