

SENATE COMMITTEE ON JUDICIARY

May 12, 2003
8:00 a.m.

Hearing Room 343
Tape 126-127

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**
 Bill Taylor, Counsel
 Bill Joseph, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 880 Work Session**
 HB 2449 Public Hearing and Work Session
 HB 2063A Public Hearing and Work Session
 HB 2101 Work Session
 HB 2594 Public Hearing
 HB 2284 Public Hearing
 HB 2279A Public Hearing

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 126, A		
003	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a work session on SB 880.
<u>SB 880 WORK SESSION</u>		
005	Craig Prins	Committee Counsel. Introduces SB 880 that establishes amount of supersedeas undertaking required for stay of certain judgments if judgment is against tobacco product manufacturer that is making payments to state under Master Settlement Agreement or related legislation, and the -2 amendments (EXHIBIT A).
033	Vice Chair Burdick	Asks if ORS 293.535 is the master settlement statute.
039	Prins	Says, yes. Discusses the -3 amendments (EXHIBIT B).
064	Vice Chair Burdick	MOTION: Moves to ADOPT SB 880 -2 amendments dated 4/9/03.

		VOTE: 4-1-1
		AYE: 4 - Burdick, Ferrioli, Starr C., Minnis
		NAY: 1 - Ringo
		EXCUSED: 1 - Walker
066	Chair Minnis	The motion CARRIES.
067	Vice Chair Burdick	MOTION: Moves to ADOPT SB 880-3 amendments dated 4/9/03.
		VOTE: 5-0-1
		EXCUSED: 1 - Walker
069	Chair Minnis	Hearing no objection, declares the motion CARRIED.
071	Vice Chair Burdick	MOTION: Moves SB 880 to the floor with a DO PASS AS AMENDED recommendation.
077	Vice Chair Burdick	Discusses the purpose of SB 880 and why she strongly supports it. Explains her support is not for the benefit of the tobacco industry.
098	Sen. Ringo	Expresses his opposition.
116	Chair Minnis	Addresses his agreement with the Vice Chair.
118		VOTE: 4-2
		AYE: 4 - Burdick, Ferrioli, Starr C., Minnis
		NAY: 2 - Ringo, Walker
126	Chair Minnis	The motion CARRIES.
		SEN. MINNIS will lead discussion on the floor.
133	Chair Minnis	Closes the work session on SB 880 and opens a public hearing on HB 2449.
<u>HB 2449 PUBLIC HEARING</u>		
141	Sen. Charles Ringo	Senate District 17. Introduces HB 2449 that increases civil penalties for abuse of elderly or incapacitated person to three times actual economic and non-economic damages.
459	Chair Minnis	Closes the public hearing on HB 2449 and opens a work session.
<u>HB 2449 WORK SESSION</u>		
177	Vice Chair Burdick	MOTION: Moves HB 2449 to the floor with a DO PASS recommendation.
		VOTE: 6-0
181	Chair Minnis	Hearing no objection, declares the motion CARRIED.
		SEN. RINGO will lead discussion on the floor.
188	Chair Minnis	Closes the work session on HB 2449 and opens a public hearing on HB 2063A.
<u>HB 2063A PUBLIC HEARING</u>		
192	Bill Joseph	Committee Counsel. Introduces HB 2063A that enacts 1997 Uniform Principal and Income Act.
220	Chair Minnis	Closes the public hearing on HB 2063A and opens a work session.
<u>HB 2063A WORK SESSION</u>		
225	Vice Chair Burdick	MOTION: Moves HB 2063A to the floor with a DO PASS recommendation.
		VOTE: 6-0
228	Chair Minnis	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
248	Chair Minnis	Closes the work session on HB 2063A and opens a work session on HB 2101.
<u>HB 2101 WORK SESSION</u>		
252	Vice Chair Burdick	MOTION: Moves to SUSPEND the rules for the purpose of Reconsideration of HB 2101.

VOTE: 6-0
Hearing no objection, declares the motion CARRIED.
MOTION: Moves to RECONSIDER the vote by which HB 2101 received a DO PASS recommendation.
VOTE: 6-0
Hearing no objection, declares the motion CARRIED.
Committee Counsel. Explains how the -1 amendments remove the conflict with SB 118 (**EXHIBIT C**).
MOTION: Moves to ADOPT HB 2101-1 amendments dated 5/9/03.
VOTE: 6-0
Hearing no objection, declares the motion CARRIED.
MOTION: Moves HB 2101 to the floor with a DO PASS AS AMENDED recommendation.
VOTE: 6-0
Hearing no objection, declares the motion CARRIED.
SEN. WALKER will lead discussion on the floor.
Closes the work session on HB 2101 and opens a public hearing on HB 2594.

HB 2594 PUBLIC HEARING
290 Carl Myers Oregon Justice of the Peace Association. Testifies in support of HB 2594. Says this is a housekeeping bill.
315 Chair Minnis Explains that the bill is going to be held for now. Closes the public hearing on HB 2594 and opens a public hearing on HB 2284.

HB 2284 PUBLIC HEARING
332 Bill Joseph Committee Counsel. Introduces HB 2284 that allows recommencement of civil action that is involuntarily dismissed without prejudice on any ground not adjudicated merits of action, or is involuntarily dismissed with prejudice because statute of limitations has expired, if action was filed within time allowed by statute and defendant had actual notice of filing of action not later than 60 days after action was filed.
352 Wendy Johnson Oregon Law Commission. Submits testimony and testifies in support of HB 2284 (**EXHIBIT D**).
375 Maury Holland Professor, University of Oregon Law School. Submits testimony and testifies in support of HB 2284 (**EXHIBIT E**).

TAPE 127, A
054 Sen. Walker Asks about notice not getting to the appropriate person because of a move.
061 Holland Discusses how notice is served and when it is deemed appropriate service.
098 Sen. Walker Expresses concern about the concepts on rules and timelines that need to be met
103 Holland Responds that due respect must be given to deadlines without unnecessarily preventing the merits of a particular issue.
113 Chair Minnis Asks for clarification of the limit beyond the statute of limitation.
124 Holland Says it is two years beyond the event.
133 Vice Chair Burdick Asks how it is determined that actual notice was given.
137 Holland Says there may be an evidentiary hearing to determine actual notice.
140 Vice Chair Burdick Asks when that hearing would take place.
142 Holland Replies that it would take place in the court of the second action.

179	Sen. Ringo	Discusses when a dismissal might happen when someone complains of insufficient notice even when notice has been given. Discusses further reasons why a trial might be dismissed. Believes this legislation is a common sense way of handling the issue.
206	Sen. Ferrioli	Asks how many re-filings can be made.
226	Holland	Says it can happen only once.
241	Chair Minnis	Asks about constitutionally sufficient service.
244	Holland	Explains that the due process clause requires a plaintiff to give the best possible notice available.
287	Sen. Walker	Asks about appeals and the alias service concept.
294	Holland	Explains the definition of “alias” as used in testimony submitted.
349	Chair Minnis	Closes the public hearing on HB 2284 and opens a public hearing on HB 2279.

HB 2279A PUBLIC HEARING

361	James Damis	Oregon State Bar. Submits testimony and testifies in support of HB 2279A that enacts revised Uniform Arbitration Act (EXHIBIT F) .
428	Chair Minnis	Asks about the hiring of arbitration firms.
460	Damis	Says this legislation does not change the hiring of firms, but that it provides safeguards regarding conflict of interest issues.

TAPE 126, B

024	Chair Minnis	Asks if it would be a conflict for an auto dealer to use a specific arbitration firm.
026	Damis	Explains that it is not the firm, but the arbitrator who is subject to a conflict of interest.
040	Chair Minnis	Contends that certain sections of the bill seem to be in conflict.
052	Damis	Explains those sections of the bill.
070	Chair Minnis	Asks for clarification of the bill that relates to employment.
091	Damis	Explains the process by which terms and conditions of employment are discussed.
127	Sen. Ringo	Asks about provisions that are not consistent with the revised model act.
140	Damis	Discusses case law that says the Uniform Arbitration Act does not apply to terms and conditions of labor agreements.
162	Sen. Ringo	Asks from where this revision was created.
169	Damis	Says it is from the Oregon State Bar.
189	Sen. Ringo	Asks if attorneys representing consumers objected to any part of these revisions.
191	Damis	Responds, no.
219	Sen. Ringo	Wonders about selection of an arbitrator.
225	Damis	Discusses the method used in the selection of an arbitrator. Says there are two opportunities to veto a suggested arbitrator.
281	Vice Chair Burdick	Closes the public hearing on HB 2279A and adjourns the meeting at 9:30 a.m.

EXHIBIT SUMMARY

A – SB 880, -2 amendments submitted by staff, 1 p

B – SB 880, -3 amendments submitted by staff, 1 p

C – HB 2101, -1 amendments submitted by staff, 1 p

D – HB 2284, written testimony of Maury Holland submitted by Wendy Johnson, 5 pp

E – HB 2284, written testimony submitted by Maury Holland, 4 pp
F – HB 2279A, written testimony submitted by James Damis, 1 p