

## SENATE COMMITTEE ON JUDICIARY

May 21, 2003  
8:00 AM

Hearing Room 343  
Tapes 136-137

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

**MEMBERS EXCUSED:**    **Sen. Ted Ferrioli**

**STAFF PRESENT:**       **Craig Prins, Counsel**  
                                  **Bill Joseph, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 613 Work Session**  
                                  **HB 2658A Public Hearing**  
                                  **HB 2581A Public Hearing**  
                                  **HB 2592A Public Hearing**  
                                  **HB 2066A Public Hearing**  
                                  **HB 2986A Public Hearing and Work Session**  
                                  **HB 3344A 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 136, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens a work session on SB 613.
<b><u>SB 613 WORK SESSION</u></b>		
006	Craig Prins	Committee Counsel. Introduces SB 613 that authorizes game official to order coach, team player or spectator to leave sports event, and the -4 amendments ( <b>EXHIBIT A</b> ).
046	Sen. Peter Courtney	Senate District 11. Introduces Mr. Don Carter and Mr. Tom Walter. Asks that the -4 amendments be adopted.
073	Tom Walter	Executive Director, Oregon School Activity Association. Testifies in support of SB 613.
112	Don Carter	Legal Counsel, Oregon School Activity Association. Testifies in support of SB 613, says the -4 amendments provide additional requirements of training and certification of the officials.
152	Vice Chair Burdick	Asks about the relationship of this bill to the free speech provision in the Oregon Constitution.
160	Carter	Says that behavior is what is being addressed, not speech.
177	Vice Chair Burdick	Asks if this bill would address insulting comments.
184	Carter	Says that persistence of such conduct could rise to the level covered in this bill.
190	Chair Minnis	Understands that it is the refusal to leave, not the actual conduct that constitutes the crime.

204	Prins	Agrees with that understanding.
227	Sen. Walker	Asks about liability protection if an official ejects the wrong person.
242	Sen. Courtney	Explains why he chose not to address this issue.
280	Chair Minnis	Concurs that adding the liability language puts a burden on the official to make a good decision.
288	Sen. Courtney	Says it is a judgment call that would be difficult to address in the language of a bill.
300	Chair Minnis	Acknowledges that as a policeman, he would want some other articulation of facts that would support the justification.
316	Sen. Walker	Asks about announcements being made before a sporting event that would inform the attendees of what is expected of them regarding sportsmanlike conduct.
328	Walter	Says there is suggested language offered, but there is no guarantee that those announcements are made at all levels of competition.
<b>340</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT SB 613-4 amendments dated 5/20/03.</b>
		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Sen. Ferrioli</b>
<b>344</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>345</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves SB 613 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Sen. Ferrioli</b>
<b>349</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. COURTNEY will lead discussion on the floor.</b>
362	Chair Minnis	Closes the work session on SB 613 and opens a public hearing on HB 2658A.

**HB 2658A PUBLIC HEARING**

367	Rep. Jeff Merkley	House District 47. Introduces HB 2658A that exempts public employee and volunteer social security numbers from disclosure under Public Records Law.
379	Sen. Walker	Asks why we don't prohibit the release of social security numbers from any employer.
389	Rep. Merkley	Explains that this bill was drafted to be narrow and address an immediate issue.
416	Mark Landauer	City of Portland, Government Relations. Testifies in support of HB 2658A.
466	Sen. Walker	Asks if there would be opposition to expanding this legislation to cover any private employee.

**TAPE 137, A**

010	Rep. Merkley	Explains that public employers are in a different position than private employers because Public Records Law only applies to public employers.
017	Sen. Walker	Believes we should not be releasing social security numbers at all.
026	Stephanie Harper	City of Portland. Submits testimony and testifies in support of HB 2658A ( <b>EXHIBIT B</b> ).
071	Sen. Walker	Says she would like an amendment.
080	Chair Minnis	Closes the public hearing on HB 2658A and opens a public hearing on HB 2581A.

**HB 2581A PUBLIC HEARING**

089	Rep. Robert	House District 13. Submits testimony and testifies in support of
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	Ackerman	HB 2581A that allows governing body to commence proceeding in circuit court to determine regularity and legality of certain actions of governing body ( <b>EXHIBIT C</b> ).
167	Jim Torrey	Mayor, City of Eugene. Submits testimony and testifies in support of HB 2581A ( <b>EXHIBIT D</b> ).
221	Sen. Walker	Expresses concern about quick legal action versus pre-determined action.
238	Torrey	Explains that what is wanted is to allow the city to give notice, allow challenge and then proceed accordingly.
259	Rep. Pat Farr	House District 14. Testifies in support of HB 2581A. Says the bill is not an attempt to allow local jurisdictions to circumvent the law.
292	Sen. Walker	Believes that if a pre-determined ruling is received from the court that it would preclude anyone from challenging a project from going forward.
300	Rep. Ackerman	Explains that this litigation tool has a very limited purpose.
360	Sen. Walker	Asks if municipalities have legal counsel to advise them, why pre-determined rulings are needed.
372	Rep. Ackerman	Explains the use of the pre-determined ruling.
360	Sen. Walker	Wonders how special interest groups would know to make an appearance.
399	Rep. Ackerman	Says that if nobody appears at a proceeding, the court would be without jurisdiction to make a decision.
416	Sen. Walker	Asks about proper notice to citizens of city planning activities.
428	Rep. Ackerman	Says that public interest groups keep a close watch on these issues.
466	Chair Minnis	Talks about the broadness of the bill on page 1, line 25, and asks in what context this procedure might be used.

**TAPE 136, B**

037	Rep. Ackerman	Explains that it would be very difficult to write every contingency into the bill.
048	Rep. Farr	Provides further clarification.
057	Sen. Ferrioli	Explains that he likes the concept and thinks it would be very useful, but asks about the fiscal impact on the court system.
072	Rep. Ackerman	Says he believes it will not have a fiscal burden on the courts.
083	Sen. Ferrioli	Asks about additional causes of harm and injury after a project is complete.
091	Torrey	Says that it is the intent of this legislation to allow additional cause cases.
115	Chair Minnis	Asks if there are any challenges to the constitutionality of the existing statute.
119	Rep. Ackerman	Answers that he is not aware of any.
128	Sen. Walker	Says there is a letter being distributed from Linda Lynch, Lane Transit District in support of this bill ( <b>EXHIBIT E</b> ).
131	Chair Minnis	Closes the public hearing on HB 2581A and opens a public hearing on HB 2592A.

**HB 2592A PUBLIC HEARING**

140	Jad Lemhouse	Linn County Justice of the Peace. Testifies in support of HB 2592A that authorizes assignment of judgments from justice court to Department of Revenue for collection from refunds or other sums owed to debtor by department.
190	Chair Minnis	Says there will be more testimony tomorrow and closes the public hearing on HB 2592A and opens a public hearing on HB 2066A.

**HB 2066A PUBLIC HEARING**

- 205 Bradd Swank State Court Administrator's Office. Submits testimony and testifies in support of HB 2066A that makes miscellaneous changes to laws governing courts (**EXHIBIT F**) and the -A18 amendments (**EXHIBIT G**).
- 323 Chair Minnis Closes the public hearing on HB 2066A and opens a public hearing on HB 2986A.

**HB 2986A PUBLIC HEARING**

- 336 Nan Heim Oregon Academy of Ophthalmology. Testifies in support of HB 2986A that provides immunity from civil liability for physician or health care provider who does not report to Department of Transportation person's impairments affecting ability to safely operate a motor vehicle.
- 391 Wayne Schumacher Oregon Optometric Physicians Association. Testifies in support of HB 2986A.
- 424 Sen. Ringo Asks about the report not being allowed in a civil action.
- 435 Heim Says in an elderly person, vision can change overnight.
- TAPE 137, B**
- 002 Sen. Walker Says the burden has been put on physicians to remove elderly person's driver licenses.
- 019 Schumacher Says that ophthalmologists have been counseling older people for years with regard to driving.
- 040 Tim Martinez Oregon Medical Association. Testifies in support of HB 2986A. Asks that an emergency clause be put on the bill.
- 060 Kelly Taylor Department of Transportation. Testifies in support of HB 2986A.
- 108 Sen. Ringo Asks about the inadmissibility of a report.
- 110 Taylor Says the report is about a person's condition and can be used in an administrative hearing, but not used against a doctor in an action.
- 117 Martinez Clarifies that Department of Motor Vehicles ultimately decides who drives and who does not.
- 124 Sen. Ringo Comments that he believes that ultimately these reports could be used against doctors in some contexts, as well as unsafe drivers.
- 131 Taylor Says that the driving record itself and the suspension notice would be proof that a driver had been told not to drive anymore.
- 139 Chair Minnis Closes the public hearing on HB 2986A and opens a work session.

**HB 2986A WORK SESSION**

- 141 Vice Chair Burdick **MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment to HB 2986A.**  
**VOTE: 5-0-1**  
**EXCUSED: 1 - Sen. Ferrioli**  
**Hearing no objection, declares the motion CARRIED.**
- 148 Chair Minnis
- 150 Vice Chair Burdick **MOTION: Moves to AMEND HB 2986A by adding "an emergency clause".**  
**VOTE: 5-0-1**  
**EXCUSED: 1 - Sen. Ferrioli**  
**Hearing no objection, declares the motion CARRIED.**
- 158 Chair Minnis
- 159 Vice Chair Burdick **MOTION: Moves HB 2986A to the floor with a DO PASS AS AMENDED recommendation.**  
**VOTE: 5-0-1**  
**EXCUSED: 1 - Sen. Ferrioli**  
**Hearing no objection, declares the motion CARRIED.**
- 163 Chair Minnis

		<b>SEN. BURDICK will lead discussion on the floor.</b>
176	Chair Minnis	Closes the work session on HB 2986A and opens a public hearing on HB 3344A.
<b><u>HB 3344A PUBLIC HEARING</u></b>		
181	Jack Munro	Oregon Title Association. Testifies in support of HB 3344A that changes number of years that intangible personal property must be held in fiduciary capacity before being presumed abandoned from five to two.
221	Sen. Ferrioli	Asks when there is written evidence of a dispute, if the dollars in that dispute would be considered abandoned.
230	Munro	Says, no.
236	Sen. Ringo	Gives an example of a personal experience, and asks what problem is being solved by this legislation.
270	Munro	Explains that the objective is simply to move some money into the Common School Fund at an earlier point in time.
296	Jeanette Holman	Division of State Lands. Further clarifies that there is a due diligence process in place to notify a property owner.
315	Sen. Ringo	Illustrates instances where the system doesn't work.
326	Sen. Walker	Says that one of the objections to another bill she carried in the Senate was the shortening of the timeline for searching for heirs.
347	Munro	Believes there is a provision in the statute ORS 98.308 which governs the disposition of unclaimed property by banks.
361	Sen. Ringo	Asks about what kind of property is involved in this statute.
362	Munro	Discusses the different provisions for different kinds of businesses.
383	Sen. Ringo	Asks about property in a safe deposit box.
391	Munro	Says this particular provision does not deal with tangible items.
377	Sen. Ringo	Indicates additional clarification is needed.
401	Vice Chair Burdick	Says the committee needs additional information about what this legislation applies to and what it does not.
450	Chair Minnis	Closes the public hearing on HB 3344A and adjourns the meeting at 10:00 a.m.

## **EXHIBIT SUMMARY**

**A – SB 613, -4 amendments submitted by staff, 1 p**

**B – HB 2658A, written testimony submitted by Stephanie Harper, 6 pp**

**C – HB 2581A, written testimony submitted by Rep. Robert Ackerman, 3 pp**

**D – HB 2581A, written testimony submitted by Jim Torrey, 2 pp**

**E – HB 2581A, written testimony of Linda Lynch submitted by Sen. Vicki Walker, 1 p**

**F – HB 2066A, written testimony submitted by Bradd Swank, 2 pp**

**G – HB 2066A, -A18 amendments submitted by staff, 1 p**