

# SENATE COMMITTEE ON JUDICIARY

May 28, 2003  
8:00 AM

Hearing Room 343  
Tapes 142 – 143

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

**MEASURE/ISSUES HEARD:**     **SJR 2 Work Session**  
                                  **HB 2118A Public Hearing and Work Session**  
                                  **HB 2278B Public Hearing**  
                                  **HB 3351 Public Hearing and Work Session**  
                                  **HB 2647A Public Hearing and Work Session**  
                                  **SB 297 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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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 142, A</b>		
003	Chair Minnis	Calls the meeting to order at 8:30 a.m. and opens a work session on SJR 2.
<b><u>SJR 2 WORK SESSION</u></b>		
<b>010</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves SJR 2 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Revenue.</b>
015	Committee	Discusses the reason for the referral to Revenue Committee. <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Walker</b>
<b>020</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
022	Chair Minnis	Closes the work session on SJR 2 and opens a public hearing on HB 2118A.
<b><u>HB 2118A PUBLIC HEARING</u></b>		
025	Pete Shepherd	Deputy Attorney General. Testifies in support of HB 2118A that expands circumstances under which order authorizing use of pen register or trap and trace device may be entered.
070	Vice Chair Burdick	Clarifies which offenses are considered racketeering.
073	Shepherd	Summarizes the list of offenses.
085	Chair Minnis	Closes the public hearing on HB 2118A and opens a work session.
<b><u>HB 2118A WORK SESSION</u></b>		
<b>090</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves HB 2118A to the floor with a DO PASS recommendation.</b>

		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Walker</b>
<b>095</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED. SEN. FERRIOLI will lead discussion on the floor.</b>
112	Chair Minnis	Closes the work session on HB 2118A and opens a public hearing on HB 2278B.
<b><u>HB 2278B PUBLIC HEARING</u></b>		
116	Wendy Johnson	Oregon Law Commission. Submits report Public Body: Special District Provisions ( <b>EXHIBIT A</b> ); and testifies in support of HB 2278B that provides consistent terminology for public bodies in laws relating to districts.
131	Dave Heynderickx	Legislative Counsel. Testifies in support of HB 2278B.
167	Chair Minnis	Closes the public hearing on HB 2278B and opens a public hearing on HB 3351.
<b><u>HB 3351 PUBLIC HEARING</u></b>		
170	John Powell	Oregon State Sheriffs Association. Testifies in support of HB 3351 that allows notary public to rely on identification of confined person by correctional facility as satisfactory evidence upon which to identify person and introduces the -2 amendments ( <b>EXHIBIT B</b> ).
180	Chair Minnis	Asks how often the problem comes up.
185	Powell	Comments on the frequency of the problem.
192	Chair Minnis	Closes the public hearing on HB 3351, and opens a work session on HB 3351.
<b><u>HB 3351 WORK SESSION</u></b>		
<b>195</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT HB 3351-2 amendments dated 05/05/03.</b>
		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Walker</b>
<b>200</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>205</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves HB 3351 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b>
		<b>EXCUSED: 1 - Walker</b>
<b>210</b>	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED. SEN. RINGO will lead discussion on the floor.</b>
215	Chair Minnis	Closes the work session on HB 3351, and opens a public hearing on HB 2647A.
<b><u>HB 2647A PUBLIC HEARING</u></b>		
245	Scott Taylor	Oregon Department of Corrections. Submits testimony and testifies in support of HB 2647A that establishes intensive alternative incarceration addiction program ( <b>EXHIBIT C</b> ).
284	Vice Chair Burdick	Asks whether the Summit Program is an addiction program.
291	Taylor	Indicates the Summit Program is not.
294	Vice Chair Burdick	Asks about the success of such programs around the country.
301	Taylor	Says there is not another program like this in the nation.
310	Chair Minnis	Closes the public hearing on HB 2647A and opens a work session on HB 2647A.
<b><u>HB 2647A WORK SESSION</u></b>		
315	Chair Minnis	Points out the fiscal impact of the bill, and mentions the need to rescind the referral to Ways and Means.
<b>320</b>	<b>Vice Chair Burdick</b>	<b>MOTION: Moves HB 2647A to the floor with a DO PASS</b>

**recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**

**VOTE: 4-0-2**

**EXCUSED: 2 - Ringo, Walker**

**Hearing no objection, declares the motion CARRIED.**

**SEN. BURDICK will lead discussion on the floor.**

325 Chair Minnis

330 Chair Minnis

Closes the work session on HB 2647A and opens a work session on SB 297.

**SB 297 WORK SESSION**

339 Dave Fiskum

Port of Portland. Testifies in support of the -3 amendments **(EXHIBIT D)** to SB 297 relating to contracts.

427 Bill Wyatt

Executive Director, Port of Portland. Testifies in support of SB 297 as amended.

**TAPE 143, A**

001 Wyatt

Continues with testimony in support of SB 297 as amended.

141 Tom Zelenka

The Schnitzer Group. Submits testimony and testifies in support of SB 297 as amended with the -3 amendments **(EXHIBIT E)**.

238 Sen. Ringo

Asks if complaints have been filed with the State Insurance Commission.

250 Zelenka

Says they have not been able to get any satisfaction from the Insurance Commission. Continues testimony.

279 Vice Chair Burdick

Asks how the pollution issue is being handled.

288 Zelenka

Says they have documented those years when policies were excluding pollution issues. Says that prorates are used.

345 Wyatt

Talks about liability issues.

391 Mark Nelson

Oregon Metal Council. Testifies in support of SB 297.

**TAPE 142, B**

033 Sen. Ringo

Notes Page 3, section 3; wonders if the state is projecting law into a practical agreement between the insurer and insured.

046 Nelson

Comments on Sen. Ringo's concern.

050 Chris Hermann

Stoel Rives, Portland, Oregon. Comments on Sen. Ringo's concerns.

063 Vice Chair Burdick

Asks about the different responses from Washington and Oregon concerning this issue.

080 Hermann

Responds, outlining the differences between Washington and Oregon regarding this issue.

094 Jack Munro

American Insurance Association (AIA). Testifies in opposition to SB 297.

120 Chair Minnis

Clarifies that Mr. Munro is implying the legislature should stay out of the matter.

152 Bill Taylor

Committee Counsel. Questions Mr. Munro's concerns.

169 Munro

Continues testimony in opposition suggesting there are some fairness and interpretation issues.

203 Vice Chair Burdick

Asks whether this issue would not come forward when the insurance companies produced the policies.

212 Munro

Further clarifies his concerns.

223 Chair Minnis

Contends that the final decision is going to be decided in court.

240 Munro

Gives an example of how this legislation would work.

265 Sen. Ringo

Asks if their objection is to the lost policy issue.

273 Munro

Further explains the AIA's concerns and objections in regards to the lost policy issue.

297 Sen. Ringo

Clarifies that the AIA does object to the lost policy section. Further clarifies the AIA's concerns.

305	Joel Ario	Oregon Insurance Division. Offers testimony regarding SB 297, and Mr. Munro's concerns. Offers a hypothetical example.
322	Chair Minnis	Asks about limits in a policy written in 1956.
329	Ario	Further outlines the hypothetical situation.
338	Chair Minnis	Asks if there is an inflation clause.
341	Ario	Indicates there is no such limit.
350	Sen. Ringo	Asks about the "all sums" clause in context to the hypothetical example offered by Mr. Ario.
375	Ario	Illustrates the "all sums" issue in context to the hypothetical.
395	Vice Chair Burdick	Expresses doubt that this issue of concern would not be addressed by SB 297.
400	Ario	Comments on the relationship.
405	Vice Chair Burdick	Further questions the relationship.
416	Ario	Provides his interpretation of the relationship.
423	Chair Minnis	Closes the work session on SB 297. Indicates his wish to hear the bill again on Monday, and adjourns the meeting at 10:05 a.m.

### **EXHIBIT SUMMARY**

**A – HB 2278B, Public Body: Special District Provisions REPORT, Wendy Johnson, 8 pp.**

**B – HB 3351, -2 amendments, John Powell, 1 p.**

**C – HB 2647A, written testimony, Scott Taylor, 2 pp.**

**D – SB 297, -3 amendments, Dave Fiskum, 6 pp.**

**E – SB 297-3, written testimony, Tom Zelenka, 4 pp.**