

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CIVIL LAW

April 23, 2001
8:00 a.m.

Hearing Room 357
Tapes 81 - 83

MEMBERS PRESENT: **Rep. Cherryl Walker, Chair**
 Rep. Vic Backlund
 Rep. Kathy Lowe
 Rep. Charlie Ringo
 Rep. Lane Shetterly

STAFF PRESENT: **Andrea Shartel, Counsel**
 Marilyn Odell, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2623 Public Hearing**
 HB 3533 Public Hearing and Work Session
 HB 2917 Public Hearing
 HB 2687 Work Session
 HB 2865 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.

TAPE/#	Speaker	Comments
TAPE 81, A		
003	Chair Walker	Calls the meeting to order at 8:18 a.m. and opens a public hearing on HB 2623.
<u>HB 2623 PUBLIC HEARING</u>		
006	Counsel Shartel	Introduces HB 2623 that allows law enforcement agencies, under certain circumstances, to examine certain documents relating to person under jurisdiction of Psychiatric Security Review Board.
015	Mary Claire Buckley	Executive Director, Psychiatric Review Board Testifies on HB 2623.
039	Chair Walker	Closes the public hearing on HB 2623 and opens a public hearing on HB 3533.
<u>HB 3533 PUBLIC HEARING</u>		
045	Counsel Shartel	Introduces HB 3533 that creates right of lien for molder that maintains possession of die if molder is not fully paid for manufacturing or fabrication work.
049	Russ Spencer	American Plastics Council Testifies in support of HB 3533.
058	Richard Graff	Nypro Plastics, Corvallis Testifies in support of HB 3533.
086	Chair Walker	Asks if they prepare molds on site.
088	Graff	Answers yes.

110	Chair Walker	Closes the public hearing on HB 3533 and opens a work session on HB 3533.
<u>HB 3533 WORK SESSION</u>		
117	Rep. Shetterly	MOTION: Moves HB 3533 to the full committee with a DO PASS recommendation.
		VOTE: 4-0-1
		EXCUSED: 1 - Lowe
117	Chair Walker	Hearing no objection, declares the motion CARRIED.
128	Chair Walker	Closes the work session on HB 3533 and opens a public hearing on HB 2917.
<u>HB 2917 PUBLIC HEARING</u>		
129	Counsel Odell	Introduces HB 2917 that prohibits use of genetic information by insurer.
140	Joseph Testa	American Council of Life Insurers Testifies in support of HB 2917 with –3 amendments (EXHIBIT A).
202	Dr. Robert Gleeson	Physician and Medical Director, Northwestern Mutual Life Insurance Testifies in support of HB 2917 with –3 amendments.
388	Testa	States that he has three reports to enter into the data for HB 2917 (EXHIBIT B).
405	Todd Thakar	Vice-President of Government Relations, Prudential Insurance Company Testifies in support of HB 2917 with –3 amendments. Discusses –3 amendments.
TAPE 82, A		
015	Rep. Shetterly	Asks about definitions of genetic test and genetic information in the bill.
023	Testa	Answers that all of Section 2, page 1, of the –3 amendments would change the definition only for the period of the moratorium. Thinks that the definition of genetic test and genetic information should be changed throughout Oregon statutes.
043	Rep. Lowe	Wonders if information that already exists in a person’s files on genetic testing information can be used by an insurance company.
061	Testa	Says that the –3 amendments would allow an insurance company to have access and use of genetic test information when that applicant comes to the insurance company, but would prohibit for a period of four years an insurer from requiring a genetic test of an applicant.
080	Rep. Ringo	Asks Dr. Gleeson if his company uses the genetic information if it is in an applicant’s file and how frequently do they review files that contain genetic information.
085	Dr. Gleeson	Answers that they review about three or four files a month.
095	Rep. Ringo	Asks what type of condition calls for genetic testing.
097	Dr. Gleeson	Answers that there are lots of different tests and describes kinds of tests.
119	Rep. Ringo	Asks why their costs would go up by 90 percent if the bill passes.
121	Dr. Gleeson	Says that their costs will not increase by 90 percent today, but

		will over time as genetic testing becomes more common in clinical practice.
161	Rep. Ringo	Asks if race could be used as a legitimate risk factor in underwriting.
169	Dr. Gleeson	Answers that race doesn't matter, they are only concerned about medical conditions of people.
178	Rep. Lowe	Wants to know if they use genetic testing to decide on an applicant and asks why they don't include the human factor of lifestyle practices.
220	Testa	Says that the insurance company is interested in access to the whole file of the applicant. Discusses how genetic testing is helpful in that people can get specific treatment for their abnormality to make them healthy and insurable.
285	Chair Walker	Remarks that for about 200 years there have been life insurance policies issued without genetic testing. Says that she doesn't understand why genetic testing is so important when there are so many other risk and environmental factors involved in an individual's health. Asks why they oppose the ban on the use of genetic information for insurance purposes.
334	Dr. Gleeson	Responds that he sees no distinction between someone who is diagnosed with an illness by a genetic test or some other test. Adds that if someone is diagnosed with a health problem then they probably need more insurance.
400	John Mangan	Standard Insurance Company Testifies in opposition to HB 2917, but supports –3 amendments and submits testimony
TAPE 81, B		
010	Justin Delaney	Government Affairs Director, Standard Insurance Company Testifies in opposition to HB 2917.
050	Forrest Richen	Standard Insurance Company Testifies in opposition to HB 2917 (EXHIBIT C).
215	Rep. Lowe	Asks why it is that every physician she has spoken to thinks this bill is a good idea.
218	Morgan	Answers that they cannot respond to other physicians that she has talked to, but that they presented Dr. Gleeson, one of the most respected underwriters in the industry, and they believe his views are indicative of where the technology is.
222	Rep. Lowe	Remarks that Dr. Gleeson works for the insurance company.
224	Morgan	States that in the spirit of compromise, the –3 amendments ban the genetic tests for four years, and after four years perhaps for longer. Adds that another important change in their amendment is the definition of “genetic test”. Says that he hopes the committee will consider the –3 amendments.
267	Rep. Shetterly	Asks a question about the –3 amendments.
300	Morgan	Answers that the purpose of that language was to describe what kinds of tests they currently use.
312	Rep. Shetterly	Asks what “routine physical measurement” means.
315	Morgan	Answers that it means height, weight and blood pressure.
324	Ted Falk	Oregon Genetic Privacy Advisory Committee Testifies on HB 2917 and discusses –4 amendments (EXHIBIT D).

424	Rep. Jeff Merkley	House District 16 Testifies on HB 2917 and supports –4 amendments that include a six-year Sunset Clause.
TAPE 82, B		
002	Rep. Merkley	Continues testimony on HB 2917 and –4 amendments.
169	Rep. Lowe	Says that she very much appreciates his tireless advocacy on behalf of health insurance consumers. Asks if it’s true that the overall scheme of the insurance companies in the –4 amendments is to discriminate against applicants from the start.
183	Rep. Merkley	Refers Rep. Lowe to Page 4, Section 4, starting at line 31, the –4 amendments. Says that this language was adopted to avoid the situation of insurers screening by the use of genetic tests.
196	Rep. Lowe	Asks why in the new subsection 2, Section 4, page 5 of the amendments do you delete the words “reject, deny” at line 5.
198	Rep. Merkley	Answers that it’s because the new language in the –4 amendments are much stronger and more comprehensive than the words “reject, deny”. Adds that subsection 2 addresses anyone that’s insured and the new language protects the insurance applicants.
213	Rep. Lowe	Asks on page 7, section 7, about the form prescribed by rules of the Health Division.
219	Rep. Merkley	Says that everything in the –4 amendments starting from the first line of Section 5, page 5 through the rest of the bill is restoring current law at the end of the six-year sunset.
243	Rep. Shetterly	Asks if an applicant for insurance has had a genetic test that indicates a particular condition, but they don’t have to provide that information to the insurance company, how do they deal with the insurance company.
270	Rep. Merkley	Emphasizes that an insurance company has to alert the person applying for insurance that they are not required to supply information based on genetic tests.
311	Rep. Shetterly	Questions that if a request has been made by an insurance company for a person’s medical record, what information does the doctor’s office have to provide.
338	Rep. Merkley	Says that that is a good question and that he will address that issue if the bill passes to the Senate.
381	John Powell	State Farm Insurance Company Testifies on HB 2917 and amendments. Discusses the difference between life and disability insurance and group health insurance.
TAPE 83, A		
005	Powell	Continues his testimony on HB 2917.
021	Chair Walker	Closes the public hearing on HB 2917 and re-opens a public hearing on HB 2623.
<u>HB 2623 PUBLIC HEARING</u>		
043	Counsel Shartel	Discusses written testimony of Rep. Dan Gardner on HB 2623 (EXHIBIT E) .
086	Chair Walker	Closes the public hearing on HB 2623 and opens a work session on HB 2687.
<u>HB 2687 WORK SESSION</u>		
092	Counsel Shartel	Discusses –3 amendments to HB 2687 that prohibits discrimination by public bodies against persons with disabilities (EXHIBIT F) .

115	Rep. Shetterly	MOTION: Moves to ADOPT HB 2687-3 amendments dated 04/13/01. VOTE: 4-0-1 EXCUSED: 1 - Ringo
115	Chair Walker	Hearing no objection, declares the motion CARRIED.
120	Rep. Shetterly	MOTION: Moves HB 2687 to the full committee with a DO PASS AS AMENDED recommendation. VOTE: 4-0-1 EXCUSED: 1 - Ringo
124	Chair Walker	Hearing no objection, declares the motion CARRIED.
126	Chair Walker	Closes the work session on HB 2687 and opens a public hearing on HB 2865.
<u>HB 2865 PUBLIC HEARING</u>		
140	Counsel Shartel	Introduces HB 2865 that provides that court in civil action may not make award of attorney fees to public body that exceeds actual cost of legal services. Discusses –1 amendments (EXHIBIT G).
146	Dave Hunnicutt	Oregonians In Action Testifies in support of HB 2865 and submits testimony (EXHIBIT H).
274	Chair Walker	Asks about attorney’s fees.
285	Hunnicutt	Says that there was no intent of tying in attorneys fees with the overall legal services cost.
309	Counsel Shartel	Mentions written testimony in opposition to HB 2865 from the cities of Portland and Eugene (EXHIBITS I & J).
316	Paul Snider	Association of Oregon Counties Testifies in opposition to HB 2865.
371	Rep. Shetterly	Says that he wasn’t aware of the Court of Appeals cases that Mr. Hunnicutt presented and asks how he distinguishes those cases from his argument.
402	Snider	Answers that he hasn’t read those cases, but doesn’t agree.
419	Christy Monson	League of Oregon Cities Testifies in opposition to HB 2865. Says that their larger concern is on attorney fee provisions in government contracts.
460	Rep. Shetterly	Says that this bill is a lot more interesting than he thought it would be.
504	Chair Walker	Closes the public hearing on HB 2865 and adjourns the meeting at 10:38 a.m.

Submitted By,

Reviewed By,

Ann Martin,
Committee Assistant

Andrea Shartel,
Counsel

EXHIBIT SUMMARY

A – HB 2917, -3 amendments, submitted by staff, dated 4/13/01, 7 pgs.

- B – HB 2917, Issue Brief, American Academy of Actuaries, submitted by Joseph Testa, American Council of Life Insurers, 16 pgs.**
- C – HB 2917, written testimony, submitted by Forrest A. Richen, Standard Insurance Company, dated 4/23/01, 3 pgs.**
- D – HB 2917, -4 amendments, submitted by staff, dated 4/19/01, 8 pgs.**
- E – HB 2623, written testimony of Rep. Dan Gardner, House District 13, submitted by staff, dated 4/23/01, 1 p.**
- F – HB 2687, -3 amendments, submitted by staff, dated 4/13/01, 1 p.**
- G – HB 2865, -1 amendments, submitted by staff, dated 4/19/01, 1 p.**
- H – HB 2865, written testimony submitted by Dave Hunnicutt, dated 4/23/01, 11 pgs.**
- I – HB 2865, written testimony of Harry Auerbach, City of Portland, submitted by staff, dated 4/5/01, 2 pgs.**
- J – HB 2865, written testimony of Phillip Fell, City of Eugene, submitted by staff, dated 4/10/01, 1 p.**