

**HOUSE COMMITTEE ON JUDICIARY**  
**SUBCOMMITTEE ON CRIMINAL LAW**

March 06, 2001  
8:30 a.m.

Hearing Room 357  
Tapes 29-31

**MEMBERS PRESENT:**     **Rep. Max Williams, Chair**  
                                  **Rep. Robert Ackerman**  
                                  **Rep. Jo Ann Bowman**  
                                  **Rep. Wayne Krieger**  
                                  **Rep. Lane Shetterly**  
                                  **Rep. Vicki Walker**  
                                  **Rep. Carl Wilson**

**STAFF PRESENT:**       **Bill Taylor, Counsel**  
                                  **Shannon Reed, Assistant**

**MEASURE/ISSUES HEARD:**     **HB 2429 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 29, A</b>		
003	Chair Williams	Calls the meeting to order at 8:33 a.m. and opens the public hearing on HB 2429 relating to civil forfeiture.
005	Rep. Shetterly	Introduces the measure only as it addresses the constitutionality of Ballot Measure 3 ( <b>EXHIBIT A</b> ).
<b><u>HB 2429 PUBLIC HEARING</u></b>		
050	<b>David Fidanque</b>	<b>Executive Director, American Civil Liberties Union</b> Submits testimony and testifies in support of HB 2429 ( <b>EXHIBIT B</b> ).
098	<b>Daina Vitolins</b>	<b>Department of Justice</b> Testifies in support of HB 2429. Presents background of law before Measure 3.
138	Fidanque	Explains that Measure 3 requires no conviction for civil forfeiture and that HB 2429 changes that and shifts the burden of proof connecting the property with the crime or proceeds of crime to the prosecutors. Explains that all forfeitures would be required to be reported.
278	Rep. V. Walker	Asks about unclaimed property.
284	Fidanque	Answers that many are not reclaimed because people may feel they have no right to the property and they have no right to counsel in the reclamation of property.
320	Rep. V. Walker	Asks about constitutionality of Measure 3 and should it be overturned.
342	Fidanque	Responds that it will take many years to straighten out and that

404	Rep. Lowe	the legislature should adopt this bill in the meantime. Asks about the broad interpretation of the drug treatment and education programs.
419	Fidanque	Responds that there is no definition of “law enforcement purposes”, and that the proceeds should not go to the agencies that handle the case. Says that the work group left the language open to apply proceeds wherever the legislature decides.
<b>TAPE 30, A</b>		
060	<b>Michelle Burrows</b>	<b>Oregon Criminal Defense Lawyers Association</b> Testifies in support of HB 2429 relating to civil forfeiture. Says that this is a consensus bill complied by many groups. Says that this is a drastic change in civil forfeiture law. Explains the –1 amendments.
151	Rep. V. Walker	Asks how animals are addressed in these forfeiture concerns.
164	Fidanque	Responds that the Humane Society had some input but that the current statutes about abused and neglected animals outside the civil forfeiture area cover this issue.
212	Burrows	Explains about the research on Measure 3 and more of the –1 amendments.
277	Vitolins	Explains sections 5 and 6.
319	Burrows	Explains sections 7-10. States that the amendment tries to balance the interest of government and the due process of claimants.
390	Rep. Lowe	Asks if the measure was clear on the burden of proof concerning transfer of property to avoid forfeiture.
410	Burrows	Responds Measure 3 requires that intent is substantiated.
<b>TAPE 29, B</b>		
013	Vitolins	Explains sections 11, 12, and 13.
041	Fidanque	Explains sections 14 through 23 that are largely technical language changes.
140	Burrows	Explains sections 25-29.
173	Vitolins	Explains sections 29-33.
204	Rep. Ackerman	Asks about immunity of police officers and probable cause.
212	Burrows	Replies that immunity is allowed if the proper seizure paperwork is in place or if probable cause is shown or reasonable suspicion.
234	Ackerman	Wonders if reasonable suspicion is the same as probable cause.
240	Burrows	Responds no.
268	Rep. Bowman	Asks which is higher standard of proof.
275	Fidanque	Responds that this was meant for officials involved in seizure to be immunized from liability.
352	<b>Geoff Sugarman</b>	<b>Oregonians for Property Protection</b> Submits testimony and testifies in support of HB 2429 <b>(EXHIBIT C).</b>
407	<b>Tiana Tozer</b>	<b>Private Citizen</b> Testifies in support of HB 2429.
<b>TAPE 30, B</b>		
034	<b>Bev. Whitehead</b>	<b>Mothers Against Drunk Driving (MADD)</b> Testifies in support of HB 2429.

069	<b>E. H. Collins</b>	<b>Private Citizen</b> Testifies in support of HB 2429.
118	<b>Madelyn Wessel</b>	<b>City of Portland</b> Testifies in support of HB 2429.
144	<b>Jim Ferraris</b>	<b>City of Portland Police Bureau</b> Submits testimony and testifies in support of HB 2429 relating to civil forfeiture ( <b>EXHIBIT D</b> ). Explains how City of Portland deals with drunken drivers and forfeiture.
250	Rep. Bowman	Ask about the difference before and after Measure 3
259	Wessel	Says that it stopped civil forfeiture cold and makes presentation concerning effectiveness of civil forfeiture in Portland.
369	Chair Williams	Asks if holidays effect the increase of drunken driving cases.
375	Wessell	Responds that these are the facts and their interpretation of the trends and figures.
<b>TAPE 31, A</b>		
009	<b>George Stevensen</b>	<b>Attorney for the City of Salem</b> Submits testimony and testifies in neutrality to HB 2429 ( <b>EXHIBIT E</b> ).
116	Chair Williams Stevenson	Asks about his position on the HB 2429. Responds that he is neutral and prefers to let the courts decide the future.
149	Rep. Bowman	Asks about money for law enforcement tools.
166	Wessell	Responds that there are always monies needed and they have not been able to get what they need with cost cutting.
178	Rep. Bowman	Asks how the city decides to allocate asset forfeiture funds.
181	Wessell	Responds that is unknowable to forecast that income and if it goes into the general fund everyone has a chance to have some.
185	Rep. Ackerman	Asks why there is a problem with Measure 3 if most pleas entered are guilty.
199	Stevensen	Responds that they try to collaborate with District Attorney.
216	Chair Williams	Closes the public hearing on HB 2429 and adjourns the meeting at 10:38 a.m.

Submitted By,

Reviewed By,

Shannon Reed,  
Assistant

Bill Taylor,  
Counsel

### **EXHIBIT SUMMARY**

**A- HB 2429, -1 amendments, submitted by staff, dated 3/2/01, 55 pgs.**

**B- HB 2429, testimony submitted by David Fidanque, American Civil Liberties Union, dated 3/06/01 10 pgs.**

**C- HB 2429, testimony submitted by G. Sugarman, Oregonians for Property Protection, dated 3/06/01, 5 pgs.**

**D- HB 2429, testimony submitted Jim Ferraris, Portland Police Bureau, dated 3/06/01, 9 pgs.**

**E- HB 2429, testimony submitted by George Stevenson, Salem City Attorney, dated 3/06/01, 3 pgs.**