

HOUSE COMMITTEE ON JUDICIARY

February 16, 2001
8:00 a.m.

Hearing Room 357
Tapes 12 and 13

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Krieger, Vice-Chair
 Rep. Ackerman
 Rep. Backlund
 Rep. Lowe
 Rep. Ringo
 Rep. Shetterly
 Rep. C.Walker
 Rep. V. Walker
 Rep. Wilson

MEMBER EXCUSED: Rep. Bowman, Vice-Chair

STAFF PRESENT: Bill Taylor, Counsel
 Andrea Shartel, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **Measure Introduction:**
 LC 616, 2316, 2843, 2886, 3295, 3316, 3434, 3452, 3624, 3626

HB 2352 Work Session
HB 2375 Work Session
HB 2355 Work Session
HB 2646 Work Session
SB 74 Work Session

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 12, A		
004	Chair Williams	Calls the meeting to order at 8:08 a.m.
010	Counsel Taylor	Discusses Legislative Counsel (LC) drafts (EXHIBITS A-J).
048	Rep. Williams	MOTION: Moves LC's: 616, 2316, 2843, 2886, 3295, 3316, 3434, 3452, 3624, 3626 BE INTRODUCED as committee bills.
		VOTE: 10-0-1
		EXCUSED: 1 - Bowman
048	Chair Williams	Hearing no objection, declares the motion CARRIED.
065	Chair Williams	Opens a work session on HB 2352.
<u>HB 2352 WORK SESSION</u>		
068	Counsel Shartel	Introduces HB 2352 relating to unlawful practices and discusses -1 amendments (EXHIBIT L). The -2 amendments were previously adopted in the civil subcommittee (EXHIBIT M).
088	Rep. Shetterly	Reports that the bill is a product of the Oregon Law Commission

work group. Explains that it constitutes a reorganization of Oregon's civil rights statutes.

172 Rep. Shetterly **MOTION: Moves to ADOPT -1 amendments dated 02/01/01.**
VOTE: 10-0-1
EXCUSED: 1 - Bowman

172 Chair Williams **Hearing no objection, declares the motion CARRIED.**

185 Rep. Ackerman Asks if it is a new provision that if BOLI files a claim within the 180 day tort claims notice then the tort claim notice is satisfied.

225 Marsha Olemiller **Bureau of Labor and Industries (BOLI)**
Testifies on HB 2352. Answers that BOLI will continue its current practice which is to advise people who are filing against a public body that they need to file a tort claim notice.

235 Rep. Ackerman Says that has not been his personal experience. Asks how they give that advice.

238 Olemiller Answers that there is a written notice that advises anyone who's filing against a public body that they need to file a tort claim notice.

239 Rep. Ackerman Asks why the agency can't file for them.
240 Olemiller Answers that the agency can't do that because they don't act as counsel to complainants if they go to court. Says that they accept administrative complaints only.

243 Rep. Ackerman Says if that is true, then if someone did not give the tort claim notice that BOLI would not administratively proceed with the case.

246 Olemiller States that a tort claim notice is not necessary for a complaint to go through BOLI.

254 Rep. Ackerman Comments that he has a problem with the fact that some cases will not get filed against public bodies because of the failure to give the tort claims notice and that many claimants believe that that is the function of BOLI when they go in and are surprised to find out that it isn't.

265 Rep. Ringo Asks what Rep. Shetterly's response would be to Rep. Ackerman's concerns.

269 Rep. Shetterly Says that he is not sure and that he has not had the same experience. Adds that the point of this bill was not to make substantive changes only procedural changes.

290 Rep. Shetterly **MOTION: Moves HB 2352 to the floor with a DO PASS AS AMENDED with the -1 and -2 amendment recommendation.**
VOTE: 10-0-1
EXCUSED: 1 - Bowman

290 Chair Williams **Hearing no objection, declares the motion CARRIED.**
SHETTERLY will lead discussion on the floor.

296 Chair Williams Closes the work session on HB 2352 and opens a work session on HB 2375.

HB 2375 WORK SESSION

298 Counsel Shartel Introduces HB 2375 relating to the use of depositions at trial.
387 Rep. Backlund **MOTION: Moves HB 2375 to the floor with a DO PASS recommendation.**
VOTE: 10-0-1

387	Chair Williams	EXCUSED: 1 - Bowman Hearing no objection, declares the motion CARRIED. BACKLUND will lead discussion on the floor.
388	Chair Williams	Closes the work session on HB 2375 and opens a work session on HB 2355.
<u>HB 2355 WORK SESSION</u>		
415	Counsel Taylor	Introduces HB 2355 relating to juvenile proceedings.
TAPE 13, A		
007	Rep. Shetterly	Discusses HB 2355 and the -2 amendments (EXHIBIT N).
026	Michael Livingston	Department of Justice Testifies on HB 2355 and the -2 amendments.
062	Rep. Shetterly	MOTION: Moves to ADOPT -2 amendments dated 02/14/01. VOTE: 10-0-1 EXCUSED: 1 - Bowman
062	Chair Williams	Hearing no objection, declares the motion CARRIED.
067	Rep. Shetterly	MOTION: Moves HB 2355 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 10-0-1 EXCUSED: 1 - Bowman
067	Chair Williams	Hearing no objection, declares the motion CARRIED. LOWE will lead discussion on the floor.
078	Chair Williams	Closes the work session on HB 2355 and opens a work session on HB 2646.
<u>HB 2646 WORK SESSION</u>		
080	Counsel Taylor	Introduces HB 2646 that reclassifies crime of assaulting public safety officer.
085	Vice Chair Krieger	Discusses HB 2646 and states that under the current law assaulting a police officer is a Class A Misdemeanor and under this bill it would become a Class C Felony.
141	Chair Williams	Explains that it is the Chair's intention to send this bill to the floor and then it will go to the Senate and then to the Ways & Means Committee.
154	Rep. Lowe	Says she is concerned about the fiscal impact and jail time.
172	Chair Williams	Points out that HB 2646 will go through Ways and Means.
185	Phil Lemman	Criminal Justice Commission Testifies on HB 2646.
225	Chair Williams	Asks about fiscal impact and increase in 2003-2005.
238	Lemman	Answers that any law is going to go into effect in January 1 of the year following so this has a delayed effective date. States that by the time they get into the 2003-2005 biennium the probation caseload will be high.
258	Chair Williams	Asks how the fiscal affects those who are currently incarcerated.
267	Lemman	Says that the cases coming out of state facilities are very small. Adds that what drives the fiscal is the hands, fist and feet assaults on police officers.
302	Vice Chair Krieger	Asks what the number of assaults was that was used as the basis to get this million-dollar expense.
305	Lemman	Answers that the number they used was based on court data that show current charges and cases where Assault of a Public Safety Officer (APSO) is involved. Says that their assumption in their

		estimate was that 75 percent of the current misdemeanor cases would translate into felony convictions, and from the context they had from the District Attorney, he didn't get any information back that would change that assumption.
333	Vice Chair Krieger	States that when this becomes public knowledge that these crimes aren't acceptable and there is a penalty to be paid you are going to see a reduction. Says that he thinks the number they used was overestimated by 50 percent.
340	Lemman	Says that they did not include any specific overall deterrent effect just my making this a felony. States that they think that there will be a greater likelihood of a deterrent effect for in-custody APSO's rather than a majority of them which occur with police officers on the street.
370	Rep. Ringo	Asks if a majority of these take place when the offender is using drugs or alcohol.
373	Lemman	Says yes.
388	Rep. Lowe	Asks if they have the latitude to change penalty and reduce it from a Category 6 but keep it as a Class C Felony so they can reduce the fiscal impact, but still give the public safety officers some leverage.
402	Lemman	Says that the reason they assume a Category 6 is because that is what they have done in the past.
TAPE 12, B		
001	Rep. Lowe	States that they may have to do something different because of the tight budget. Asks if Category 2 would accomplish her suggestion.
003	Lemman	Says yes.
015	Rep. Lowe	Asks if we use Category 2 would we have a fiscal impact.
018	Lemman	Answers that it would be a lesser fiscal impact.
025	Rep. Shetterly	Says that the bill doesn't direct the classification. States that an increase in the classification will enhance the seriousness of the crime and increase the consequences.
041	Rep. Wilson	Describes his five-year experience in Josephine County as a patrol deputy reserve. Stresses that they need to stop people from harming police officers.
096	Vice Chair Krieger	Discusses his experience as a police officer. Proclaims that this bill does give some protection to public safety officers.
126	Rep. Ringo	Reports that there is not likely to be any deterrent effect that would prevent assaults to public safety officers. States that whenever we see a problem in society the answer is to enhance the sentences with the hope that we will deter it. Says that he will vote yes for the bill out of respect for the testimony of Rep. Wilson and Rep. Krieger, but is cautious about continually supporting increases in sentencing.
150	Rep. Lowe	Comments that she supports the bill and in her questioning did not mean to minimize the danger that our public safety officers face. Says that she wants very much for the bill to pass, but is concerned about the magnitude of the fiscal impact.
207	Chair Williams	MOTION: Moves HB 2646 to the floor with a DO PASS recommendation.
		VOTE: 10-0-1
		EXCUSED: 1 - Bowman
207	Chair Williams	Hearing no objection, declares the motion CARRIED. KRIEGER will lead discussion on the floor.

217	Chair Williams	Closes the work session on HB 2646 and opens a work session on SB 74.
<u>SB 74 WORK SESSION</u>		
218	Counsel Taylor	Introduces SB 74 allowing grand jury to receive affidavit of court employee in evidence when investigating charge of failure to appear.
240	Rep. Lowe	Comments that there will be some cost savings to the state with this bill.
290	Chair Williams	MOTION: Moves SB 74 to the floor with a DO PASS recommendation.
		VOTE: 10-0-1
		EXCUSED: 1 - Bowman
290	Chair Williams	Hearing no objection, declares the motion CARRIED. WALKER, C. will lead discussion on the floor.
	Chair Williams	Closes the work session on SB 74 and adjourns the meeting at 9:20 a.m.
308	Jeff Tryens	Executive Director, Oregon Progress Board
		Reports on the Oregon Progress Board.
TAPE 13, B		
001	Tryens	Continues report on the Oregon Progress Board.

Submitted By,

Reviewed By,

Ann Martin
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

- A – LC Draft 616, submitted by staff, dated 2/15/01, 2 pgs.**
- B – LC Draft 2316, submitted by staff, dated 1/19/01, 1 p.**
- C – LC Draft 2843, submitted by staff, dated 2/6/01, 5 pgs.**
- D – LC Draft 2886, submitted by staff, dated 2/13/01, 1 p.**
- E – LC Draft 3295, submitted by staff, dated 2/12/01, 2 pgs.**
- F – LC Draft 3316, submitted by staff, dated 2/15/01, 2 pgs.**
- G – LC Draft 3434, submitted by staff, dated 2/13/01, 3 pgs.**
- H – LC Draft 3452, submitted by staff, dated 2/9/01, 1 p.**
- I – LC Draft 3624, submitted by staff, dated 2/14/01, 1 p.**
- J – LC Draft 3626, submitted by staff, dated 2/13/01, 1 p.**
- K – HB 2352, written testimony submitted by Lynn-Marie Crider, dated 2/16/01, 1 p.**
- L – HB 2352, -1 amendments, submitted by staff, dated 2/1/01, 1 p.**
- M – HB 2352, -2 amendments, submitted by staff, dated 2/12/01, 2 pgs.**
- N – HB 2355, -2 amendments, submitted by staff, dated 2/14/01, 1 p.**

