

## HOUSE COMMITTEE ON JUDICIARY

April 16, 2001  
5:00 p.m.

Hearing Room 357  
Tapes 35 -38

**MEMBERS PRESENT:**      Rep. Max Williams, Chair  
                                 Rep. Wayne Krieger, Vice-Chair  
                                 Rep. Kathy Lowe, Vice-Chair  
                                 Rep. Robert Ackerman  
                                 Rep. Vic Backlund  
                                 Rep. Jackie Dingfelder  
                                 Rep. Charlie Ringo  
                                 Rep. Lane Shetterly  
                                 Rep. Cheryl Walker  
                                 Rep. Vicki Walker  
                                 Rep. Carl Wilson

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

**MEASURE/ISSUES HEARD:**      **HB 2381 Work Session**  
                                 **HB 2382 Work Session**  
                                 **HJR 7 Public Hearing**  
                                 **HB 2008 Work Session**  
                                 **HB 2404 Work Session**  
                                 **HB 2664 Work Session**  
                                 **HB 2884 Work Session**  
                                 **HB 2951 Work Session**  
                                 **HB 3119 Work Session**  
                                 **HB 3594 Work Session**  
                                 **HB 2460 Work Session**  
                                 **HB 2739 Work Session**  
                                 **HB 2840 Work Session**  
                                 **HB 2918 Work Session**  
                                 **HB 3665 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 35, A</b> 003	Chair Williams	Calls the meeting to order at 5:19 p.m. and opens a work session on  HB 2381.
<b><u>HB 2381 WORK SESSION</u></b> 009	Counsel Shartel	Explains HB 2381 dealing with attorney fees in contract actions when amount claimed is less than \$5,500. Discusses the -2 amendments that were adopted in the civil subcommittee <b>(EXHIBIT A)</b> .
027	Rep. Shetterly	Explains amendments and moves bill.
<b>055</b>	<b>Rep. Shetterly</b>	<b>MOTION: Moves HB 2381 to the floor with a DO PASS AS AMENDED recommendation.</b>

059 Rep. Ackerman States he will vote no.  
092 Rep. Ringo Concurs with Rep. Ackerman's reasons and will also be voting no.  
118 Rep. Shetterly Withdraws motion.  
124 Chair Williams Closes the work session on HB 2381 and opens a work session on HB 2382.

**HB 2382 WORK SESSION**

139 Rep. Lowe Explains and supports HB 2382 and the -3 amendments that were adopted in the civil subcommittee (**EXHIBIT B**).  
**153 Rep. Lowe MOTION: Moves HB 2382 to the floor with a DO PASS AS AMENDED recommendation.**  
156 Rep. Shetterly Urges the committee's support.  
**175 VOTE: 9-0-2**  
**AYE: In a roll call vote, all members present vote Aye.**  
**EXCUSED: 2 - V. Walker, Krieger**  
**Chair Wilson The motion CARRIES.**  
**REP. LOWE will lead discussion on the floor.**  
185 Chair Williams Closes the work session on HB 2382 and re-opens the work session on HB 2381.

**HB 2381 WORK SESSION**

186 Chair Wilson Talks about the earlier discussion on objections to the current version of the bill.  
194 Rep. Lowe Notes this is not a perfect bill, but will help practitioners in the long run.  
207 Rep. Ringo Adds that overall it will help the larger public.  
**216 Rep. Shetterly MOTION: Moves HB 2381 to the floor with a DO PASS AS AMENDED recommendation.**  
**VOTE: 7-3-1**  
**AYE: 7 - Backlund, Krieger, Lowe, Shetterly, Walker C, Wilson, Williams**  
**NAY: 3 - Ackerman, Dingfelder, Ringo**  
**EXCUSED: 1 - Walker V**  
**Chair Williams The motion CARRIES.**  
**REP. LOWE will lead discussion on the floor.**  
239 Chair Williams Closes the work session on HB 2381 and opens a public hearing on HJR 7.

**HJR 7 PUBLIC HEARING**

244 Chair Williams Explains background of HJR 7 that proposes amendment to Oregon Constitution to establish Judicial Merit Selection Commission.  
356 **Ed Harnden Oregon State Bar Association**  
Submits testimony and testifies in support of HJR 7 (**EXHIBIT C**).  
461 **Ruth Beyer Multnomah Bar Association**  
Submits testimony and testifies as neutral to HJR 7 (**EXHIBIT D**).  
**TAPE 36, A**  
0063 **Robert Neuberger Multnomah Bar Association**  
Testifies as neutral to HJR 7.

148	Chair Williams	Discusses the –1 amendments and asks about their support in smaller communities ( <b>EXHIBIT E</b> ).
206	Harnden	Responds in support of the –1 amendments.
231	Neuberger	Responds with limited support of the –1 amendments.
251	Beyer	Concurs with Mr. Neuberger with limited support of the –1 amendments.
268	Chair Williams	Asks for comments on sub-section 5.
310	Harnden	Responds about commission flexibility.
322	Rep. Shetterly	Discusses different language concerning the –1 amendments.
340	Rep. Dingfelder	Asks about the other states with this program.
347	Harnden	Explains the method used in other states.
381	Rep. Lowe	Asks about judicial independence in the selection process.
411	Rep. Shetterly	Comments about the need for local, small community involvement.
441	Harnden	Responds with concern.
459	Henry Lazenby	<b>Legal Counsel to Governor John Kitzhaber</b> Submits testimony and testifies in opposition to HJR 7 ( <b>EXHIBIT F</b> ).
<b>TAPE 35, B</b>		
045	Lazenby	Continues testimony.
116	Rep. Shetterly	Comments about potential changes.
153	Lazenby	Comments on Florida and California situations.
195	Rep. Ackerman	Asks about the commission and public meeting laws.
203	Lazenby	Comments about the Governor’s selection process.
254	Rep. Ringo	Asks about former discussions.
265	Lazenby	Offers his help.
281	Rep. Lowe	Expresses concerns about the process of constitutional amendment instead of statute changes.
287	Chair Williams	Closes the public hearing on HJR 7 and opens a work session HB 2008.
<b><u>HB 2008 WORK SESSION</u></b>		
327	Counsel Taylor	Explains HB 2008 and the –2 amendments that increases penalties for littering on beaches ( <b>EXHIBIT G</b> ).
337	Rep. Wilson	Speaks about what the bill does.
371	Rep. Lowe	Submits a scenario and asks about possible repercussions.
381	Rep. Wilson	Replies to the issue.
407	Rep. Backlund	Asks if by doubling the penalties for littering will it reduce littering.
412	Rep. Wilson	Replies that they want it known that littering is a serious offense.
428	Chair Williams	Comments that he has seen the beaches getting dirtier again.
436	Rep. Ringo	Says he will vote no on this bill.
453	<b>Rep. Williams</b>	<b>MOTION: Moves HB 2008 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 10-1-1</b> <b>AYE: 10 - Ackerman, Backlund, Dingfelder, Shetterly, C. Walker, V. Walker, Wilson, Krieger, Lowe, Williams</b> <b>NAY: 1 - Ringo</b> <b>Chair Williams</b> <b>The motion Carries.</b> <b>REP. WILSON will lead discussion on the floor.</b>
470	Chair Williams	Closes the work session on HB 2008 and opens a work session on HB 2404.

**HB 2404 WORK SESSION**

472 Counsel Taylor

Explains HB 2404 and the –2 amendments that creates the Oregon Criminal Justice Council (**EXHIBIT H**).

**TAPE 36, B**

031 Chair Williams

Comments how this council differs from the current Criminal Justice Commission

056 Rep. Williams

**MOTION: Moves to ADOPT HB 2404-2 amendments dated 4/16/01.**

**VOTE: 11-0**

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

065 Chair Williams  
Rep. Williams

**MOTION: Moves HB 2404 to the floor with a DO PASS AS AMENDED recommendation with a SUBSEQUENT REFERRAL to the committee on Ways and Means.**

**VOTE: 11-0**

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

069 Chair Williams

Closes the work session on HB 2404 and opens a work session on

HB 2664.

**HB 2664 WORK SESSION**

070 Counsel Taylor

Explains HB 2664 that expands list of crimes for which blood or buccal samples must be obtained.

092 Rep. V. Walker

Says she will vote no on the bill.

119 Rep. Wilson

Says he will also be voting no.

131 Rep. Dingfelder

States she is concerned about the costs involved in these tests.

144 Rep. C. Walker

States the tests are very effective.

166 Rep. Ackerman

Says he vote yes.

185 Chair Williams

Defines robbery in the first degree.

209 Rep. Backlund

Asks if fingerprinting was considered an invasive procedure.

220 Rep. V. Walker

Responds to Rep. Backlund's comments.

251 Rep. Williams

**MOTION: Moves HB 2664 to the floor with a DO PASS AS AMENDED recommendation with a SUBSEQUENT REFERRAL to the committee on Ways and Means.**

**VOTE: 8-3**

**AYE: 8 - Ackerman, Backlund, Ringo, Shetterly, C. Walker, Krieger, Lowe, Williams**

**NAY: 3 - Dingfelder, V. Walker, Wilson**

**The motion Carries.**

254

Chair Williams

264 Chair Williams

Closes the work session on HB 2664 and opens a work session on

HB 2884.

**HB 2884 WORK SESSION**

266 Counsel Taylor

Explains HB 2884 that allows a qualified entity to request a criminal records check from the State Police. Discusses –3 and –5 amendments (**EXHIBITS I & J**).

360 Rep. Williams

**MOTION: Moves to ADOPT HB 2884-3 amendments dated 3/26/01.**

**VOTE: 11-0**

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

Chair Williams

369	Chair Williams	<b>MOTION: Moves to ADOPT HB 2884-5 amendments dated 4/9/01.</b>
	Chair Williams	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
405	Chair Williams	<b>MOTION: Moves to RESCIND the SUBSEQUENT REFERRAL of HB 2884 to the Committee on Ways and Means</b>
	Chair Williams	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
414	Chair Williams	<b>MOTION: Moves HB 2884 to the floor with a DO PASS AS AMENDED recommendation.</b>
	Chair Williams	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. KAFOURY will lead discussion on the floor.</b>
427	Chair Williams	Closes the work session on HB 2884 and opens a work session on HB 2951.
<b><u>HB 2951 WORK SESSION</u></b>		
429	Counsel Taylor	Explains HB 2951 and the –4 amendments ( <b>EXHIBIT K</b> ) that increases penalty for crime of riot.
<b>TAPE 37, A</b>		
051	Chair Williams	Refers to the complexities of the solution.
064	Rep. Wilson	Asks why this is needed.
078	Rep. Shetterly	Responds to Rep. Wilson’s question.
106	Rep. V. Walker	Asks if they can work on the larger problem during the interim.
110	Chair Williams	Comments that people will come to her to discuss the original bill. Suggests they work more on the bill before voting on it. Closes the work session on HB 2951 and opens a work session on HB 3119.
<b><u>HB 3119 WORK SESSION</u></b>		
138	Counsel Taylor	Explains HB 3119 that relates to liberal transfer provisions.
172	Rep. Shetterly	<b>MOTION: Moves to ADOPT HB 3119-3 amendments dated 4/16/01.</b>
179	Rep. Ackerman	Speaks in support of the –3 amendments ( <b>EXHIBIT L</b> ).
191	Rep. V. Walker	Speaks in support of the amendments. <b>VOTE: 11-0</b>
	Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
199	Rep. Shetterly	<b>MOTION: Moves HB 3119 to the floor with a DO PASS AS AMENDED recommendation.</b>
	Chair Williams	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. LOWE will lead discussion on the floor.</b>
223	Chair Williams	Closes the work session on HB 3119 and opens a work session on HB 3594.
<b><u>HB 3594 WORK SESSION</u></b>		
229	Counsel Taylor	Explains HB 3594 that increases the penalty for criminal driving while suspended or revoked.

233	Rep. Dingfelder	Explains the bill.
<b>249</b>	<b>Rep. Dingfelder</b>	<b>MOTION: Moves HB 3594 to the floor with a DO PASS recommendation.</b>
	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. DINGFELDER will lead discussion on the floor.</b>
255	Chair Williams	Closes the work session on HB 3594 and opens a work session on HB 2460.
<b><u>HB 2460 WORK SESSION</u></b>		
269	Counsel Shartel	Explains HB 2460 that deals with SLAP suits.
281	Rep. Shetterly	Further describes the bill.
<b>320</b>	<b>Rep. Shetterly</b>	<b>MOTION: Moves HB 2460 to the floor with a DO PASS AS AMENDED recommendation.</b>
330	Rep. V. Walker	Asks if this bill has a better chance than the other of getting through the Senate.
337	Rep. Shetterly	Responds that the biggest issue was immunity, and this is a different process.
355	Rep. Ackerman	Comments about the appealing part of this bill.
<b>386</b>	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. SHETTERLY &amp; REP. SCHRADER will lead discussion on the floor.</b>
390	Chair Williams	Closes the work session on HB 2460 and opens a work session on HB 2739.
<b><u>HB 2739 WORK SESSION</u></b>		
394	Counsel Shartel	Explains HB 2739 and the –1 amendments that authorizes creation of pet trusts ( <b>EXHIBIT M</b> ).
401	Rep. Shetterly	Further describes the bill.
448	Rep. Krieger	Asks for clarification of ‘class of animals’.
455	Rep. Shetterly	States it refers to domestic pets or animals.
<b>487</b>	<b>Rep. Shetterly</b>	<b>MOTION: Moves HB 2739 to the floor with a DO PASS AS AMENDED recommendation.</b>
	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. SHETTERLY will lead discussion on the floor.</b>
497	Chair Williams	Closes the work session on HB 2739 and opens a work session on HB 2840.
<b><u>HB 2840 WORK SESSION</u></b>		
<b>Tape 38, A</b>		
027	Counsel Shartel	Explains HB 2840 that makes county judgeships nonpartisan.
035	Rep. Lowe	Reaffirms the issues.
040	Chair Williams	Tells the committee that there are a number of counties that do not have county commissions but operate their counties under county court.
061	Rep. V. Walker	Asks how long this has been a system in Oregon.
062	Chair Williams	Responds back to pioneer days.
<b>066</b>	<b>Rep. Lowe</b>	<b>MOTION: Moves HB 2840 to the floor with a DO PASS</b>

**recommendation.**

**VOTE: 11-0**

**Chair Williams**

**Hearing no objection, declares the motion CARRIED.  
REP. C. WALKER will lead discussion on the floor.**

079

Chair Williams

Closes the work session on HB 2840 and opens a work session on  
HB 2918.

**HB 2918 WORK SESSION**

080

Counsel Shartel

Explains HB 2918 and the –1 amendments (**EXHIBIT N**) that modifies the crimes of stalking and harassment to include electronic communication.

093

Rep. Backlund

Further defines the bill.

107

**Rep. Backlund**

**MOTION: Moves HB 2918 to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 11-0**

**Chair Williams**

**Hearing no objection, declares the motion CARRIED.  
REP. TOMEI AND REP. DEVLIN will lead discussion on the floor.**

117

Chair Williams

Closes the work session on HB 2918 and opens a work session on  
HB 3665.

**HB 3665 WORK SESSION**

118

Counsel Shartel

Explains HB 3665 that authorizes the holder of a temporary OLCC sales license to sell factory sealed containers for consumption off licensed premises. Says that the –1 amendments were adopted in subcommittee (**EXHIBIT O**).

134

Rep. Shetterly

Adds comments to the description.

155

**Rep. Shetterly**

**MOTION: Moves HB 3665 to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 11-0**

**Chair Williams**

**Hearing no objection, declares the motion CARRIED.  
REP. BROWN will lead discussion on the floor.**

164

Chair Williams

Closes the work session on HB 3665 and adjourns the meeting at 7:43 p.m.

Submitted By,

Reviewed By,

Ann Martin  
Committee Assistant

Bill Taylor  
Counsel

Transcribed By,

Cheryl Young

## **EXHIBIT SUMMARY**

- A – HB 2381, -1 amendments, submitted by staff, dated 2/9/01, 2 pgs.**
- B – HB 2382, -3 amendments, submitted by staff, dated 3/26/01, 1 pg.**
- C - HJR 7 written testimony submitted by Ed Harnden, Oregon State Bar, 1 pg.**
- D – HJR 7 written testimony submitted by Ruth Beyer, Oregon State Bar, 5 pgs.**
- E – HJR 7, -1 amendments, submitted by staff, dated 4/16/01, 1 pg.**
- F - HJR 7 written testimony submitted by Henry Lazenby, Jr. Governor’s Office, 10 pgs.**
- G – HB 2008, -2 amendments, submitted by staff, dated 3/14/01, 1 pg.**
- H – HB 2404, -2 amendments, submitted by staff, dated 4/16/01, 2 pgs.**
- I – HB 2884, -3 amendments, submitted by staff, dated 3/26/01, 3 pgs.**
- J –HB 2884, -5 amendments, submitted by staff, dated 4/19/01, 3 pgs.**
- K – HB 2951, -4 amendments, submitted by staff, dated 4/16/01, 10 pgs.**
- L – HB 3119, -3 amendments, submitted by staff, dated 4/16/01, 5 pgs.**
- M – HB 2739, -1 amendments, submitted by staff, dated 4/9/01, 2 pgs.**
- N – HB 2918, -1 amendments, submitted by staff, dated 4/9/01, 1 pg.**
- O – HB 3665, -1 amendments, submitted by staff, dated 3/28/01, 1 pg.**