

## SENATE COMMITTEE ON JUDICIARY

March 07, 2001 Hearing Room 343  
1:00 p.m. Tapes 55 - 56

**MEMBERS PRESENT:**        **Sen. John Minnis, Chair**  
                                  **Sen. Peter Courtney, Vice-Chair**  
                                  **Sen. Roger Beyer**  
                                  **Sen. Ginny Burdick**  
                                  **Sen. Verne Duncan**  
                                  **Sen. Steve Harper**  
                                  **Sen. Rick Metsger**

**STAFF PRESENT:**         **Marilyn Odell, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**        **SB 130 Public Hearing and Work Session**  
                                  **SB 163 Public Hearing**  
                                  **HB 2425 Public Hearing and Work Session**  
                                  **HB 2410 Public Hearing and 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 55, A</b>		
004	Chair Minnis	Calls the meeting to order at 1:35 p.m. and opens a public hearing on SB 130.
<b><u>SB 130 PUBLIC HEARING</u></b>		
007	<b>Kevin Mannix</b>	<b>Salem, Oregon</b> Introduces SB 130 relating to recovery of tax proceeding expenses; creating new provisions; and amending ORS 305.490.
027	Sen. Burdick	Asks if a private party appeals and wins, would they not be eligible for recovery of costs.
031	Mannix	Answers that he does not know.
037	Counsel Odell	Explains that this would allow the court in its discretion to award attorney fees in any judgement in favor of the taxpayer.
040	Mannix	Says that it does not talk about the State recovering fees from the taxpayer if the taxpayer appeals.
043	Sen. Burdick	Asks if it would be good policy to have repayment available only in cases where the government files the appeal.
046	Mannix	Replies, yes.
072	<b>Betsey Earls</b>	<b>Associated Oregon Industries</b> Testifies in support of SB 130. Introduces Larry Tapanen and Bob Oleson.
070	<b>Larry Tapanen</b>	<b>Tapanen Group, Inc.</b> Testifies in support of SB 130. Says this bill will facilitate a

		broader use of the magistrate court that was established in Oregon two Legislative Sessions ago.
111	<b>Bob Oleson</b>	<b>Oregon State Bar</b> Testifies in support of SB 130. Says that the tax section and the administrative section of the bar support this bill, and believes it will expand the concept of awarding prevailing fees to taxpayers.
118	Sen. Burdick	Asks if this bill would only apply to Government appeals.
122	Tapanen	Replies that it is his understanding that it applies to both.
128	Sen. Burdick	Asks about how many more appeals would be involved here than property tax disputes.
133	Tapanen	Replies that he does not know.
135	Earls	States that Oregon Forest Industries Council asked her to express their support of SB 130.
140	<b>Jim Craven</b>	<b>American Electronics Assn.</b> Testifies in support of SB 130. States that his association has worked on these issues over the years and believes this bill represents a common sense approach.
154	Sen. Burdick	Referring to the fiscal report, wonders where the \$250,000 would come from.
163	<b>John Phillips</b>	<b>Department of Revenue</b> Replies that he believes it would come from the Department of Revenue's budget (general fund).
175	<b>Jason Williams</b>	<b>Executive Director, Taxpayers Assoc. of Oregon</b> Submits testimony and testifies in support of SB 130 ( <b>EXHIBIT A</b> ). Says that this bill would be a matter of fairness and flexibility that would compliment the Tax Court.
198	<b>Cindy Roberts</b>	<b>Alaska Airlines</b> Testifies in support of SB 130. Discusses the trouble the airline company is having with the Department of Revenue with regard to the valuation of their planes. Says Oregon values their used planes higher than any other 34 states that have unitary tax. Says that the new high-technology planes are not flying into Portland because of the taxation.
230	Sen. Duncan	Asks if it is correct that Alaska Airlines does not send its better planes into Oregon because of the taxation issue.
232	Roberts	Responds that is arguably correct. States that United Airlines is grappling with the same problem.

249	Sen. Duncan	Asks for information about how other states evaluate their planes.
266	<b>Judy James</b>	<b>Legislative Fiscal Office</b>
275	<b>Mark Nelson</b>	Explains the “other funds” aspect of SB 130. <b>Oregon Metals Industries Council</b>
299	Chair Minnis	Testifies in support of SB 130. States that what is fair on the income tax side is also fair on the real and personal property tax side.
<b><u>SB 130 WORK SESSION</u></b>		
301	Sen. Duncan	Closes the public hearing on SB 130 and opens a work session. <b>MOTION: Moves SB 130 to the floor with a DO PASS recommendation.</b>
304	Chair Minnis	<b>VOTE: 6-0-1</b> <b>EXCUSED: 1 – Courtney</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>DUNCAN will lead discussion on the floor.</b>
329	Vice Chair Courtney	<b>MOTION: Moves to SUSPEND the rules for the purpose of</b>
329	Vice Chair Courtney	<b>Allowing Sen. Courtney to vote on SB 130.</b> <b>Votes “aye”</b>
331	Chair Minnis	<b>VOTE: 7-0-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
332	Chair Minnis	Closes the work session on SB 130 and opens a public hearing on SB 163.
<b><u>SB 163 PUBLIC HEARING</u></b>		
334	Kevin Mannix	<b>Salem, Oregon</b> Submits a hand-engrossed copy of SB 163 relating to vehicle pursuits, and testifies in support of SB163 as amended <b>(EXHIBIT B)</b> . Explains that some of the bill’s original detailed description of policy is being removed because it may create more bureaucracy than needed.
413	Sen. Harper	Asks if it is clear in any other statute that the person being pursued is liable.
421	Mannix	Replies that in terms of tort law, if they are the cause of an accident, they are liable.
421	Counsel Odell	States that it is her assumption that the police are being brought into this because the person being pursued probably has no insurance and no funds.
438	Chair Minnis	Asks for a definition of “joint and severally liable”.
440	Counsel Odell	Explains.
453	Sen. Burdick	States that she is concerned about criteria being removed from this bill by the proposed amendment..
472	Mannix	Replies that his intent was to remove possible points of argument with regard to lawsuits.
<b>TAPE 56, A</b>		
053	Sen. Burdick	Wonders about blanket immunity.
060	Mannix	Replies that as procedures and standards have been created to allow government to be sued, we have thought more like lawyers rather than applying fairness and common sense.
078	Sen. Metsger	Asks how immunity would apply when there is an agency policy of procedure.

086	Mannix	Replies that this bill, as amended, tends toward fewer lawsuits.
111	Sen. Duncan	Wonders at what point are we dealing with the legal issue and at what point are you micro-managing.
122	<b>Glenn Chastain</b>	<b>Oregon State Police</b> Testifies in support of the general concept of SB 163. States that there is currently a policy that governs pursuits, however, statute should not force specific language to be in place in a police pursuit policy. It should require only that the policy be in place in order to grant immunity. Explains that since 1995 there have been 14 claims against the Oregon State Police.
145	<b>Russ Spencer</b>	<b>Oregon Sheriff's Association</b> Testifies in support of SB 163. States that he is not in favor of a blanket statewide standard for pursuits because individual communities and jurisdictions ought to set the standard of enforcement.
164	Vice Chair Courtney	States that he is uncomfortable knowing that individual communities have their own policy and wonders about their content.
193	Chastain	Replies that the State Police have a policy in place and will get Sen. Courtney a copy. Explains the uniqueness of each pursuit.
211	Spencer	States that every police agency in Oregon has a pursuit policy. Says that they vary depending on what risk factors an agency wants to adopt.
225	Sen. Duncan	Referring to paragraph 2, page 1 of SB 163, proposes that lines 13 and 14 with regard to guidelines be left in.
244	Vice Chair Courtney	Wonders if it is Section 4 of the bill that is objectionable.
251	Spencer	States that he doesn't like it.
253	Chair Minnis	States that this needs more work.
269	Vice Chair Courtney	Demonstrates why he feels the need for a blanket policy.
295	Spencer	States that the Association of Chiefs of Police has a model pursuit policy that is made available to all members.
314	<b>Mark Landauer</b>	<b>City of Portland</b> Submits testimony and testifies in support of SB 163 ( <b>EXHIBIT C</b> ). Discusses the general order for police pursuit, Exhibit C, and says the Police Bureau spends numerous hours training on how to prevent a pursuit, how to safely conduct a pursuit and how to safely end a pursuit.
355	<b>Sgt. Bob Gross</b>	<b>Portland Police Bureau</b> Says he has personally been involved in or supervised over 200 pursuits and knows exactly what happens. Shares the experiences his officers have had with pursuits.
426	Sen. Burdick	Asks how he feels about the pursuit policy.
435	Sgt. Gross	Replies that he is comfortable with a strict pursuit policy. Explains what is involved in deciding to take pursuit.
491	Sen. Duncan	Asks if an officer on patrol is always able to be in contact with his supervisors.
<b>TAPE 55, B</b>		
031	Sgt. Gross	Replies, yes.
040	Sen. Duncan	Asks which jurisdiction is responsible when a pursuit takes an officer out of his own area.
044	Sgt. Gross	Replies that it is the responsibility of the agency where the pursuit begins to notify the agency where it appears the pursuit is

155 Chair Minnis going. Discusses the “Precision Intervention Technique”.  
Closes the public hearing on SB 163, and opens a public hearing on HB 2425.

**HB 2425 PUBLIC HEARING**

162 Rep. Lane Shetterly

**House District 34**

Submits testimony and testifies in support of HB 2425 relating to terminology used for public bodies in Oregon Revised Statutes **(EXHIBIT D)**. Says that this bill comes from the Oregon Law Commission that was created in 1997 to serve as a body involved in a continuous program of law improvement. Discusses the need for consistency in terminology that currently does not exist. Asks if it is intended that this bill deal with the definition of public bodies only.

241 Sen. Duncan

Replies that is correct.

244 Rep. Shetterly

265 Chair Minnis

Recesses the public hearing on HB 2425 and opens a public hearing on HB 2410.

**HB 2410 PUBLIC HEARING**

272 Rep. Lane Shetterly

**House District 34**

Testifies in support of HB 2410 relating to dispute resolution. States that this bill extends immunity to types of dispute resolution services that were not available when the original statute was enacted.

316 Sandie Pattison

**Polk County, Oregon**

Submits testimony and testifies in support of HB 2410 **(EXHIBIT E)**.

328 Chair Minnis

Closes the public hearing on HB 2410 and opens a work session.

**HB 2410, WORK SESSION**

329 Sen. Burdick

**MOTION: Moves HB 2410 to the floor with a DO PASS recommendation.**

**VOTE: 7-0-0**

334 Chair Minnis

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

336 Chair Minnis

Closes the work session on HB 2410 and re-opens the public hearing on HB 2425.

**HB 2425 PUBLIC HEARING RECONVENED**

337 David Heynderickx

**Senior Deputy, Legislative Counsel**

Testifies in support of HB 2425 relating to terminology used for public bodies in Oregon Revised Statutes. Discusses the need for consistency and says this bill provides tools that will allow for consistency.

418 Bradd Swank

**State Court Administrator’s Office**

Testifies in support of HB 2425.

**TAPE 56, B**

032 Sen. Beyer

Referring to line 17, page 1, wonders why the Oregon State Bar is excluded.

041 Swank

Replies that the Oregon State Bar is currently exempt from laws that are applicable to public bodies, except when they are specifically included.

050 Sen. Beyer

Asks if the Oregon State Bar is a private organization.

053 Swank

Replies that it is a public entity that is defined by its own statutes as to which public laws it is subject to.

058 Chair Minnis

Asks where the State Accident Insurance Fund fits into this

060	Heynderickx	definition.
075	Chair Minnis	Replies that it is declared by statute as a public body.
		Closes the public hearing on HB 2425 and opens a work session.
		<b><u>HB 2425 WORK SESSION</u></b>
077	Sen. Courtney	<b>MOTION: Moves HB 2425 to the floor with a DO PASS recommendation.</b>
080	Sen. Beyer	Expresses his concern that the Oregon State Bar has excluded themselves from their own bill.
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 – Burdick</b>
104	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>COURTNEY will lead discussion on the floor.</b>
107	Chair Minnis	Closes the work session on HB 2425 and adjourns the meeting at 3:07 p.m.

Submitted By,                      Reviewed By,

Jane Bodenweiser,  
Committee Assistant

Marilyn Odell,  
Counsel

**EXHIBIT SUMMARY**

- A – SB 130, written testimony submitted by Jason Williams, 1 p**
- B – SB 163, hand engrossed bill submitted by Kevin Mannix, 1 p**
- C – SB 163, written testimony submitted by Mark Landauer for David Lesh, dated 3/7/01, 17 pp**
- D – HB 2425, written testimony submitted by Rep. Lane Shetterly, 17 pp**
- E – HB 2410, written testimony submitted by Sandie Pattison, 1 p**