

SENATE COMMITTEE ON JUDICIARY

April 24, 2001 Hearing Room 343
1:00 p.m. Tapes 106 - 107

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: **Andrea Shartel, Counsel**
 Craig Prins, Counsel
 Marilyn Odell, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2041 Public Hearing and Work Session**
 HB 2042 Public Hearing and Work Session
 HB 2414A Public Hearing and Work Session
 HB 2353A Reconsideration and Work Session
 SB 163 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 106, A 004	Chair Minnis	Calls the meeting to order at 1:40 p.m. and opens a public hearing on HB 2041.
<u>HB 2041 PUBLIC HEARING</u> 007	Greg Chaimov	Legislative Counsel Introduces HB 2041 that requires Legislative Counsel to send copy of administrative rule determination to affected state agency only if Legislative Counsel determines rule to be unauthorized or to raise constitutional issue. Says that under current rule, they are required to send a paper report to the affected agency on each of 1200 administrative rules submitted in a biennium.
017	Chair Minnis	Closes the public hearing on HB 2041 and opens a work session.
<u>HB 2041 WORK SESSION</u> 018	Vice Chair Courtney	MOTION: Moves HB 2041 to the floor with a DO PASS recommendation. VOTE: 4-0-3
024	Chair Minnis	EXCUSED: 3 - Burdick, Metsger, Duncan Hearing no objection, declares the motion CARRIED. COURTNEY will lead discussion on the floor.
025	Chair Minnis	Closes the work session on HB 2041 and opens a public hearing

HB 2042 PUBLIC HEARING

026 **Greg Chaimov**

on HB 2042.

Legislative Counsel

Introduces HB 2042 that grants discretion to directors of legislative service agencies to enter into contracts to carry out functions of agencies. Says this bill corrects a drafting mistake.

033 Chair Minnis

Closes the public hearing on HB 2042 and opens a work session.

HB 2042 WORK SESSION

035 **Vice Chair
Courtney**

MOTION: Moves HB 2042 to the floor with a DO PASS recommendation.

VOTE: 4-0-3

EXCUSED: 3 - Duncan, Burdick, Metsger

Hearing no objection, declares the motion CARRIED.

COURTNEY will lead discussion on the floor.

039 **Chair Minnis**

041 Chair Minnis

Closes the work session on HB 2042 and opens a public hearing on HB 2414A.

HB 2414A PUBLIC HEARING

049 **David Kenagy**

Executive Director, Oregon Law Commission

Submits testimony and testifies in support of HB 2414A **(EXHIBIT A)** relating to conflict of laws governing certain contracts.

090 Chair Minnis

Asks for clarification of a “choice of law”.

099 Kenagy

Replies that the commission has codified the choice of law to be what they believe is best for Oregon and consistent in terms of the choice of law nationally.

116 **Symeon
Symeonides**

Oregon Law Commission

Testifies in support of HB 2414A. Says that the bill attempts to clarify the law in a principled and consistent manner. Says that case law is problematic because it can be interpreted many different ways.

150 Sen. Beyer

Uses an example to ask about how Oregon law applies when contracted with an out-of-state party.

155 Symeonides

Replies that his example is correct.

158 Sen. Beyer

Asks if the contract needs to state which Oregon laws apply.

159 Symeonides

Replies that it only needs to state that Oregon law applies.

161 Sen. Beyer

Asks whose law applies if it is not stated in a contract.

163 Symeonides

Replies that there are provisions in the bill that say that Oregon law applies in certain circumstances.

189 Chair Minnis

Asks if there is a list of case law cases that this bill was derived from.

194 Symeonides

Replies that there is an introductory report to the bill that has been submitted to the committee, and offers to provide additional information to support the report.

220 Chair Minnis

Closes the public hearing on HB 2414A and opens a work session.

HB 2414A WORK SESSION

221 **Vice Chair
Courtney**

MOTION: Moves HB 2414A to the floor with a DO PASS recommendation.

239 Chair Minnis

Asks if there is any objection from the Oregon State Bar to this bill.

247	Kenagy	Replies that the bill was presented to the Bar and there were no negative comments. VOTE: 6-0-1 EXCUSED: 1 – Burdick
264	Chair Minnis	Hearing no objection, declares the motion CARRIED. DUNCAN will lead discussion on the floor.
273	Sen. Duncan	MOTION: Moves to SUSPEND the rules for the purpose of allowing Sen. Duncan and Sen. Metsger to vote on HB 2041 and HB 2042. VOTE: 6-0-1 EXCUSED: 1 – Burdick
282	Chair Minnis	Hearing no objection, declares the motion CARRIED.
284	Sen. Duncan	Votes aye on HB 2041 and aye on HB 2042.
286	Sen. Metsger	Votes aye on HB 2041 and aye and HB 2042.
288	Chair Minnis	Closes the work session on HB 2414A and announces reconsideration of HB 2353A.
<u>HB 2353A RECONSIDERATION</u>		
295	Counsel Prins	Says that HB 2353A, relating to controlled substances, is being reconsidered due to the possibility of the –A3 amendments (EXHIBIT D) creating a fiscal impact. Explains that the amendments do not have a fiscal impact.
316	Vice Chair Courtney	MOTION: Moves to RECONSIDER THE VOTE BY WHICH HB 2353A WAS SENT TO THE FLOOR WITH A DO-PASS RECOMMENDATION. VOTE: 7-0-0
321	Chair Minnis	Hearing no objection, declares the motion CARRIED.
<u>HB 2353A WORK SESSION</u>		
323	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2353A-A3 amendments dated 4/19/01. VOTE: 7-0-0
327	Chair Minnis	Hearing no objection, declares the motion CARRIED.
329	Vice Chair Courtney	MOTION: Moves HB 2353A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 7-0-0
333	Chair Minnis	Hearing no objection, declares the motion CARRIED. COURTNEY will lead discussion on the floor.
339	Chair Minnis	Closes the work session on HB 2353A and opens a work session on SB 163.
<u>SB 163 WORK SESSION</u>		
357	Counsel Odell	Introduces SB 163 that grants immunity to law enforcement units from liability arising out of vehicle pursuits if written policy is adopted. Discusses the –1 and –2 amendments (EXHIBITS E and F) . Presents a letter from the City of Eugene Police Chief (EXHIBIT G) .
431	Chair Minnis	Asks about the legislative intent of unjustified deviation.
432	Counsel Odell	Explains that this would refer to some sort of a serious deviation from the policy that there is no good reason to deviate from.

016	Kevin Mannix	Salem, Oregon
		Explains unjustified deviation.
067	Vice Chair Courtney	Wonders about the language of the bill that refers to the supervisor, and asks what a supervisor is.
074	Chair Minnis	Replies that in the Portland Police Department it would be a Sargent.
084	Counsel Odell	Says that review of various policies nationally and in Oregon shows that generally the supervisor is not someone in a car at the scene, but someone at the station.
094	Vice Chair Courtney	Wonders about a chain of command if the Sargent is the one in the car in pursuit.
101	Chair Minnis	Explains the chain of command.
124	Sen. Metsger	Asks about sub-sections 7 and 8 on page 2 of the –2 amendments.
135	Counsel Odell	Replies that in a corrective action, the fact that there is no written policy in force cannot be used against an officer or agent of the law enforcement unit.
155	Vice Chair Courtney	MOTION: Moves to ADOPT SB 163—2 amendments dated 4/20/01.
		VOTE: 7-0-0
159	Chair Minnis	Hearing no objection, declares the motion CARRIED.
160	Vice Chair Courtney	MOTION: Moves SB 163 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0
162	Chair Minnis	Hearing no objection, declares the motion CARRIED. METSGER will lead discussion on the floor.
168	Chair Minnis	Closes the work session on SB 163 and adjourns the meeting at 2:30 p.m.

Submitted By,

Reviewed By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Craig Prins
Counsel

Andrea Shartel
Counsel

EXHIBIT SUMMARY

A – HB 2414A, written testimony submitted by David Kenagy, dated 12/13/00, 18 pp

B – HB 2041, written testimony submitted by Gregory Chaimov, dated 4/24/01, 1 p

C – HB 2042, written testimony submitted by Gregory Chaimov, dated 4/24/01, 1 p

D – HB 2353A, -3 amendments submitted by staff, dated 4/19/01, 1 p

E – SB 163, -1 amendments submitted by staff, dated 4/18/01, 2 pp

F – SB 163, -2 amendments submitted by staff, dated 4/20/01, 2 pp

G – SB 163, written testimony submitted by staff for James Hill, dated 4/23/01, 1 p