

SENATE COMMITTEE ON JUDICIARY

May 21, 2001 Hearing Room 343
1:00 p.m. Tapes 150 - 151

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**
 Craig Prins, Counsel
 Bill Taylor, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2613 Public Hearing and Work Session**
 HB 2389, Reconsideration and Work Session
 HB 2972 Public Hearing and Work Session
 HB 2379A Public Hearing and Work Session
 HB 2413 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 150, A		
004	Chair Minnis	Calls the meeting to order at 1:20 p.m. and opens a public hearing on HB 2613.
<u>HB 2613 PUBLIC HEARING</u>		
011	Al Davidson	Marion County Clerk Testifies in support of HB 2613 that modifies date by which county assessor stipulations must be delivered to board of property tax appeals.
027	Sen. Duncan	Asks if it is possible to get the parties to agree.
031	Davidson	Replies, yes.
033	Chair Minnis	Closes the public hearing on HB 2613 and opens a work session.
<u>HB 2613 WORK SESSION</u>		
032	Vice Chair Courtney	MOTION: Moves HB 2613 to the floor with a DO PASS recommendation. VOTE: 5-0-2 EXCUSED: 2 - Beyer, Burdick
034	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. DUNCAN will lead discussion on the floor.
040	Chair Minnis	Closes the work session on HB 2613 and opens a public hearing on HB 2389.
<u>HB 2389 PUBLIC HEARING</u>		

046	Scott Parker	Association of Oregon Counties Testifies in support of HB 2389 that provides that public official may be held personally liable for unlawful expenditure of public moneys only if expenditure constitutes malfeasance in office or wanton neglect of duty.
113	John Gray	Oregon County Councils' Association Testifies in support of HB 2389 and says this bill addresses a fairness issue.
132	Christy Monson	League of Oregon Cities Submits testimony and testifies in support of HB 2389 (EXHIBIT A) . Says this bill does not allow immunity to public officials.
152	Sen. Harper	Asks for an example of a problem that this bill would correct.
157	Monson	Responds with an example.
177	Parker	Gives additional examples of real cases.
217	Sen. Duncan	Explains that personal liability insurance does not cover a public official in his official capacity.
236	Parker	Discusses examples of potential liabilities.
262	Chair Minnis	Asks how one would prove malfeasance.
266	Gray	Responds that he would make a determination based on facts and the law.
330	Chair Minnis	Closes the public hearing on HB 2389 and opens a work session.
<u>HB 2389 WORK SESSION</u>		
331	Vice Chair Courtney	MOTION: Moves HB 2389 to the floor with a DO PASS recommendation. VOTE: 4-1-2 AYE: 4 - Duncan, Courtney, Minnis, Metsger NAY: 1 - Harper EXCUSED: 2 - Burdick, Beyer The motion Carries. SEN. COURTNEY will lead discussion on the floor.
334	Chair Minnis	
350	Chair Minnis	Closes the work session on HB 2389 and opens a public hearing on HB 2972.
<u>HB 2972 PUBLIC HEARING</u>		
373	Jerry Tausend	Hood River, OR Submits testimony and testifies in support of HB 2972 that expands crime of making false claim for health care payment to include claims made to casualty insurers (EXHIBIT B) . Reads testimony from Dr. John Grigsby (EXHIBIT C) .
TAPE 151, A		
053	Sen. Metsger	Asks about insurance fraud.
071	John Powell	State Farm Insurance Company Clarifies that the bill expands the law with regard to losses under a casualty policy.
108	Chair Minnis	Asks for a definition of a casualty policy and wonders if it could include a homeowners policy.
131	Powell	Replies, yes and gives examples.
152	Lana Butterfield	Safeco Insurance Company Gives an example of slip and fall claimants.
174	Chair Minnis	Closes the public hearing on HB 2972 and opens a work session.
<u>HB 2972 WORK SESSION</u>		

177	Vice Chair Courtney	MOTION: Moves HB 2972 to the floor with a DO PASS recommendation.
180	Chair Minnis	VOTE: 6-0-1 EXCUSED: 1 – Burdick Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.
186	Chair Minnis	Closes the work session on HB 2372 and opens a public hearing on HB 2379A.
<u>HB 2379A PUBLIC HEARING</u>		
188	Counsel Prins	Introduces HB 2379A that excludes riding in or using public transit vehicle from crime of unauthorized use of motor vehicle. Submits –A3, -A4 and –A5 amendments (EXHIBITS D, E, and F).
232	Dick Feeney	TRIMET
247	Counsel Prins Chair Minnis	Testifies in support of the –3 and –5 amendments. Discusses the –5 amendments. Closes the public hearing on HB 2379A and opens a work session.
<u>HB 2379A WORK SESSION</u>		
260	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2379-A3 amendments dated 5/2/01.
264	Chair Minnis	VOTE: 6-0-1 EXCUSED: 1 - Burdick Hearing no objection, declares the motion CARRIED.
265	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2379-A5 amendments dated 5/14/01.
268	Chair Minnis	VOTE: 6-0-1 EXCUSED: 1 - Burdick Hearing no objection, declares the motion CARRIED.
276	Counsel Prins	Discusses the –A4 amendments.
281	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2379-A4 amendments dated 5/10/01.
285	Sen. Metsger	Says he does not think we need the –A4 amendments. VOTE: 3-3-1 AYE: 3 - Minnis, Duncan, Courtney NAY: 3 - Metsger, Harper, Beyer EXCUSED: 1 – Burdick
296	Chair Minnis	The motion Fails.
299	Vice Chair Courtney	MOTION: Moves HB 2379 to the floor with a DO PASS AS AMENDED recommendation.
311	Chair Minnis	VOTE: 6-0-1 EXCUSED: 1 – Burdick Hearing no objection, declares the motion CARRIED. METSGER will lead discussion on the floor.
314	Chair Minnis	Closes the work session on HB 2379A and opens a work session on HB 2413.
<u>HB 2413 WORK SESSION</u>		
320	Counsel Taylor	Introduces HB 2413 that modifies affirmative defense to crime of furnishing obscene materials to minors. Distributes testimony

336	Rep. Lane Shetterly	from Michael Reynolds (EXHIBIT G) House District 34 Testifies in support of HB 2413. Says that a broader fix to the obscenity statutes will not be accomplished in this session and asks the committee to make the fix as proposed in HB 2413 to satisfy the court's stated objections to the furnishing obscene materials to minors statute.
395	Michael Reynolds	Department of Justice Testifies in support of HB 2413. Suggests a one-word amendment.
TAPE 150, B 007	David Fidanque	American Civil Liberties Union (ACLU) of Oregon Discusses the obscenity statutes that he has provided for the committee (EXHIBIT H). Stresses that if the committee has any question in their mind about this bill, it would be best not to pass it at this time.
093	Vice Chair Courtney	Asks about a change to the wording of the bill.
103	Fidanque	Discusses the affirmative defense aspect of the wording.
140	Reynolds	Says that the court of appeals believes this statute focuses on purpose as opposed to affect.
225	Chair Minnis	Questions the statement made about when a person might be prosecuted.
233	Reynolds	Explains what a person might be prosecuted for.
309	Fidanque	Submits that this topic needs to be worked on during the interim.
TAPE 151, B 028	Chair Minnis	Says that in reading affirmative defense it is still not clear and wonders if Reynolds would agree that this statute could be written more clearly.
039	Reynolds	Replies that the court of appeals has already interpreted it as an affects based statute, but agrees it could be written more clearly.
073	Vice Chair Courtney	MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.
075	Chair Minnis	VOTE: 7-0 Hearing no objection, declares the motion CARRIED.
77	Vice Chair Courtney	MOTION: Moves to AMEND HB 2413 on page 1, in line 13, after "some," delete "legitimate".
079	Chair Minnis	VOTE: 7-0 Hearing no objection, declares the motion CARRIED.
080	Vice Chair Courtney	MOTION: Moves HB 2413 to the floor with a DO PASS AS AMENDED recommendation.
084		VOTE: 6-1-0 AYE: 6 - Minnis, Metsger, Beyer, Courtney, Duncan, Harper NAY: 1 - Burdick
	Chair Minnis	The motion Carries. SEN. MINNIS will lead discussion on the floor.
105	Chair Minnis	Closes the work session on HB 2413 and adjourns the meeting at 2:45 p.m.

Submitted By,	Reviewed By,	Reviewed By,	Reviewed By,
Jane Bodenweiser, Odell, Committee Assistant	Craig Prins Counsel	Bill Taylor Counsel	Marilyn Counsel

EXHIBIT SUMMARY

- A – HB 2389, written testimony submitted by Christy Monson, dated 5/21/01, 1 p**
- B – HB 2972, written testimony submitted by Jerry Tausend, dated 5/21/01, 1 p**
- C – HB 2972, written testimony submitted by John Grigsby, dated 5/15/01, 1 p**
- D – HB 2379A, -A3 amendments submitted by staff, dated 5/2/01, 1 p**
- E – HB 2379A, -A4 amendments submitted by staff, dated 5/10/10, 1 p**
- F – HB 2379A, -A5 amendments submitted by staff, dated 5/14/01, 1 p**
- G – HB 2413, written testimony submitted by Michael Reynolds, dated 5/21/01, 2 pp**
- H – HB 2413, statutes reprint submitted by David Fidanque, 2 pp**