

## SENATE COMMITTEE ON JUDICIARY

May 09, 2001 Hearing Room 343  
1:00 P.M. Tapes 130 - 131

**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**

**MEMBER EXCUSED:**        **Sen. Steve Harper**  
                                  **Sen. John Minnis**

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

**MEASURE/ISSUES HEARD:**    **HB 2338 Public Hearing and Work Session**  
                                  **SB 956 Work Session**  
                                  **HB 2372A Public Hearing and Work Session**  
                                  **HB 2374A Public Hearing and Work Session**  
                                  **HB 2361 Public Hearing**  
                                  **HB 2387A Public Hearing and Work Session**  
                                  **HB 2371 Public Hearing and 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.

---

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 130, A</b>		
004	Vice Chair Courtney	Calls the meeting to order at 1:10 p.m. and opens a public hearing on HB 2338.
<b><u>HB 2338 PUBLIC HEARING</u></b>		
007	Counsel Odell	Introduces HB 2338 that provides that upon appeal of lower court judgement, transcript of trial proceedings and motions to correct or add to transcript need not be filed until the expiration of period of time during which appeal is held in abeyance for mediation.
019	<b>Jan Shea</b>	<b>Oregon Judicial Department</b> Submits testimony and testifies in support of HB 2338 ( <b>EXHIBIT A</b> ). Explains that this bill clarifies when a transcript is due, when a motion must be filed and when a motion to correct the transcript must be filed.
070	<b>Harry Auerbach</b>	Testifies in support of HB 2338.
075	Vice Chair Courtney	Closes the public hearing on HB 2338 and opens a work session.
<b><u>HB 2338 WORK SESSION</u></b>		
077	<b>Sen. Duncan</b>	<b>MOTION: Moves HB 2338 to the floor with a DO PASS</b>

**recommendation.**

**VOTE: 5-0-2**

**EXCUSED: 2 - Minnis, Harper**

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

**SEN. COURTNEY will lead discussion on the floor.**

080 Vice Chair  
Courtney  
081 Vice Chair Courtney

Closes the work session on HB 2338 and opens a work session on SB 956.

**SB 956 WORK SESSION**

082 Sen. Metsger

Discusses SB 956 that allows person to bring civil action against owner or operator of equipment that causes interference with radio communications sent or received by public safety agency if interference results in injury, death or damage to plaintiff.

101 Jeff Johnson

**Tualatin Valley Fire & Rescue**

Submits testimony and testifies in support of SB 956 (**EXHIBIT B**).

135 Brian DeLashmutt

**Nextel**

Testifies in support of SB 956 and says that Nextel is doing all it can to resolve the problem of interference with radio communication.

144 Steve Leonard

**Nextel**

Testifies in support of SB 956. Says the company is working on pro-active measures to eliminate interference.

159 Susan Schneider

**City of Portland**

Testifies in support of SB 956. Says that Nextel has been working with the City of Portland on the 911 service.

177 Sen. Metsger

Asks if the proposal involves a 3-tier approach to resolving the problem of interference.

190 Johnson

Says yes, and explains the 3-step process.

210 Sen. Metsger

Commends public safety agencies and Nextel for their work on this issue, and asks that the bill be held until test results come back.

247 Vice Chair Courtney

Closes the work session on SB 956 and opens a public hearing on HB 2372A.

**HB 2372A PUBLIC HEARING**

258 Jeff Johnson

**Oregon State Bar**

Submits testimony and testifies in support of HB 2372A that allows taking of telephone testimony in civil jury trial (**EXHIBIT C**).

312 Vice Chair Courtney

Closes the public hearing on HB 2372A and opens a public hearing on HB 2374A.

**HB 2374A PUBLIC HEARING**

316 Jeff Johnson

**Oregon State Bar**

Submits testimony and testifies in support of HB 2372A that provides that more than one party may be prevailing party in civil action, including arbitration, trial and appeal, for purpose of making award of attorney fees (**EXHIBIT D**).

381 Vice Chair Courtney

Closes the public hearing on HB 2374A and opens a work session.

**HB 2374A WORK SESSION**

381 Sen. Duncan

**MOTION: Moves HB 2374A to the floor with a DO PASS recommendation.**

**VOTE: 4-0-3**

388	Vice Chair Courtney	<b>EXCUSED: 3 – Burdick, Minnis, Harper</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. COURTNEY will lead discussion on the floor.</b>
389	Vice Chair Courtney	Closes the work session on HB 2374A and opens a work session on HB 2372A.
<b><u>HB 2372A WORK SESSION</u></b>		
391	Sen. Duncan	<b>MOTION: Moves HB 2372A to the floor with a DO PASS recommendation.</b> <b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Minnis, Harper</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. DUNCAN will lead discussion on the floor.</b>
396	Vice Chair Courtney	<b>EXCUSED: 2 - Minnis, Harper</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. DUNCAN will lead discussion on the floor.</b>
405	Vice Chair Courtney	Closes the work session on HB 2372A and opens a public hearing on HB 2361.
<b><u>HB 2361 PUBLIC HEARING</u></b>		
409	Keith Garza	<b>Staff Attorney, Oregon Supreme Court</b> Submits testimony and testifies in support of HB 2361 that allows appeal of stipulated judgement in certain circumstances if party has reserved right to appeal ruling of trial court ( <b>EXHIBIT E</b> ).
<b>TAPE 131, A</b>		
025	Sen. Duncan	Asks for clarification on the term “collusive appeal”.
027	Garza	Gives an example.
048	Sen. Beyer	Asks for an example of what this bill would do.
068	Garza	Gives an example to explain what the bill is intended to do.
116	Sen. Metsger	Asks for clarification on the appeal process.
120	Garza	Uses the example given to demonstrate the appeal process.
135	Vice Chair Courtney	Closes the public hearing on HB 2361 and opens a public hearing on HB 2387A.
<b><u>HB 2387A PUBLIC HEARING</u></b>		
140	Harry Auerbach	<b>Attorney, City of Portland</b> Testifies as neutral on HB 2387A that allows judge in action for partition or sale to order owner of property held by tenancy in common to borrow money against property to pay claims of another owner without regard to which owner opposes partition or sale. Explains the need for the –A2 amendments ( <b>EXHIBIT F</b> ).
206	Sen. Metsger	Asks for an example of when a public body would own property in joint with a private citizen or another public body.
211	Auerbach	Provides an example.
240	Vice Chair Courtney	Closes the public hearing on HB 2387A and opens a work session.
<b><u>HB 2387A WORK SESSION</u></b>		
242	Sen. Duncan	<b>MOTION: Moves to ADOPT HB 2387-A2 amendments dated 5/9/01.</b> <b>VOTE: 4-1-2</b> AYE: 4 - Metsger, Courtney, Duncan, Burdick NAY: 1 – Beyer <b>The motion Carries.</b>
257	Vice Chair Courtney	<b>The motion Carries.</b>

267	Vice Chair Courtney	Closes the work session on HB 2387A and opens a public hearing on HB 2371.
<b><u>HB 2371 PUBLIC HEARING</u></b>		
282	<b>Chris Crean</b>	<b>Attorney, Portland, Oregon</b> Submits testimony and testifies in support of HB 2371 that allows party to de novo appeal of planning and zoning decisions made without hearing to raise all issues that could have been raised in hearing before decision ( <b>EXHIBIT G</b> ). Closes the public hearing on HB 2371 and opens a work session.
342	Vice Chair Courtney	Closes the public hearing on HB 2371 and opens a work session.
<b><u>HB 2371 WORK SESSION</u></b>		
343	<b>Sen. Duncan</b>	<b>MOTION: Moves HB 2371 to the floor with a DO PASS recommendation.</b> <b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Minnis, Harper</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. METSGER will lead discussion on the floor.</b>
358	<b>Vice Chair Courtney</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. METSGER will lead discussion on the floor.</b>
370	Vice Chair Courtney	Closes the work session on HB 2371 and adjourns the meeting at 2:00 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser  
Committee Assistant

Marilyn Odell  
Counsel

## **EXHIBIT SUMMARY**

- A – HB 2338, written testimony submitted by Jan Shea, dated 5/9/01, 3 pp**
- B – SB 956, written testimony submitted by Jeff Johnson, dated 5/8/01, 5 pp**
- C – HB 2372, written testimony submitted by Jeff Johnson, dated 5/9/01, 2 pp**
- D – HB 2374, written testimony submitted by Jeff Johnson dated 5/9/01, 3 pp**
- E – HB 2361, written testimony submitted by Keith Garza, dated 5/9/01, 1 p**
- F – HB 2387, -A2 amendments submitted by staff, dated 5/9/01, 1 p**
- G – HB 2371, written testimony submitted by Chris Crean, dated 5/9/01, 2 pp**