

SENATE COMMITTEE ON RULES AND REDISTRICTING

May 01, 2001 Hearing Room C
3:00 PM Tapes 72 & 75

MEMBERS PRESENT: Sen. Steve Harper, Chair
Sen. Peter Courtney, Vice-Chair
Sen. Jason Atkinson
Sen. Lee Beyer
Sen. Kate Brown
Sen. Randy Miller
Sen. John Minnis

STAFF PRESENT: Craig Allen, Committee Administrator
Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: Public Hearing and Work Session
HCR 7
HB 2093-A
HB 2369-A
SM 2
Public Hearing
HB 2411-A

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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 72, A 003	Chair Harper	Calls meeting to order at 3:05 p.m. and opens a public hearing on HCR 7.
<u>HCR 7 – PUBLIC HEARING</u>		
011	Rep. Vickie Walker	Explains the purpose of HCR 7 is to congratulate the University of Oregon (U of O) and Oregon State University (OSU) football teams for their outstanding seasons.
020	Rep. Kelley Wirth	Testifies in support of HCR 9. States it is an important resolution.
031	Dwayne Folly	Executive Director, OSU Alumni Association. Testifies in support of HCR 7. States he is representing some 130,000 graduates who are still celebrating OSU's 41-9 victory over Notre Dame in the Fiesta Bowl. Comments on team rating in PAC 10 and awards received by coach.
	Jim Perry	President, U of O Alumni Association. States the resolution is self-explanatory and they appreciate the committee taking time to consider it.
060	Sen. Miller	Comments on appeal of university based on winning seasons in sports.
	Chair Harper	Closes public hearing and opens a work session on HCR 7.
<u>HCR 7 - WORK SESSION</u>		

087	Sen. Courtney	MOTION: Moves HCR 7 be sent to the floor with a BE ADOPTED recommendation.
093	Chair Harper	VOTE: 7-0 Hearing no objection, declares the motion CARRIED. SEN. L. BEYER will lead discussion on the floor.
099	Chair Harper	Chair opens a public hearing on HB 2093-A
105	<u>HB 2093-A - PUBLIC HEARING</u> Rep. Betsy Close	Testifies in support of HB 2093-A. Explains that the bill originates from a situation in Linn County. Submits editorial from Albany Democrat Herald (EXHIBIT A). States that a county commissioner received land that the county had foreclosed on from an intermediary, a friend, who had purchased the property two days earlier at auction. States this action is not illegal but several counties have said they do not do it because of the ethics involved. The bill puts in statute that this practice cannot be done.
119	Rep. Close	Introduces Roger Nyquist, Linn County Commissioner.
120	Roger Nyquist	Chair, Linn County Board of Commissioners. Testifies in support of HB 2093-A: <ul style="list-style-type: none"> • Thinks it is a bad idea for commissioners and other elected county officials to purchase at county auction land that has been foreclosed on. • Sometimes officials have greater access to and greater information about a piece of property than the general public does. • If the bid on land at auction is less than market value, the commissioners will have to rule on whether or not to accept the bid.
136		Issues discussed: <ul style="list-style-type: none"> • Whether Association of Oregon Counties (AOC) has a stance on the bill.
152		<ul style="list-style-type: none"> • Whether the term "intermediary" (page 1, line 16) is defined anywhere. • Value of property involved.
218	Sen. L. Beyer Conley	Asks Harrison Conley how he defines "intermediary." Legislative Counsel's office. Responds he has not defined the term "intermediary" in the bill and is not aware of another definition in the statutes. States his intention in drafting the language was to get at the concept of a "strawman" or "strawperson" that they learn in law school as someone who acts on behalf of another person, as opposed to an arm's length deal where someone might buy from the county and later sell as a matter of course.
237	Sen. L. Beyer	Gives example of a person buying the property for \$9,000 and two weeks later sells it for \$15,000, and asks if that would be a violation under the terms of this bill.
239	Conley	States he believes there is some room for discretion in that call. Thinks if the second transaction is made at or near market value, then that probably looks like a person who is in it for a profit, not as someone acting as an intermediary.
262	Sen. Minnis	Asks if the bill criminalizes the behavior.

	Conley	Responds they used the conflict of interest provisions that apply to public officers generally and believes some additional penalty was included.
271	Sen. Minnis Conley	Asks why this is not fraud. Responds that he is not sure what the definition of fraud would be and will get the information.
282	Sen. Minnis	Comments he does not think the bill makes it a criminal offense but it is a nice little sanction and would like to look at some amendment in Judiciary Committee in another bill related to crime to make it clear when a public official uses a third party to conceal his/her identity to obtain some gain or benefit to buy a piece of property it would constitute fraud subject to criminal penalties.
298	Conley	Comments that there is no real penalty but the county officer would be required to sell the property back to county less county costs, or the amount received from the sale if the property has been sold.
300	Chair Harper	Closes the public hearing and opens a work session on HB 2093
327	Sen. Courtney	MOTION: Moves HB 2093A to the floor with a DO PASS recommendation.
339	Sen. Miller	Asks if there is a remedy such as a holding period or period in which the property would be advertised for sale in a paper of record or something that would give the public the opportunity to buy the property so if a commissioner happened to be interested in the property he/she could, along with all other citizens, buy it.
348 363	Sen. L. Beyer	Comments that advertising is required prior to a sheriff's sale. VOTE: 7-0

Chair Harper

Hearing no objection, declares the motion CARRIED.

SEN. MINNIS will lead discussion on the floor.

366	Chair Harper
375	Rep. Lane Shetterly

Opens a public hearing on HB 2411-A.

District 34. Testifies in support of HB 2411:

- Seatbelts are required in motor vehicles and children are required to be in booster seats but under current law the external portion of a pickup is permitted to carry any passenger.
- Adults in the cab have to be belted in but a baseball team can be hanging out the back of the pickup.
- In an accident there can be a situation where there are no injuries to occupants who are belted in and serious and fatal injuries to people who are thrown out onto concrete or gravel.
- A swerve or bump on an unimproved road or rapid deceleration or acceleration of a vehicle can cause a person to fall out.
- The bill was a compromise. It acknowledges exemptions for parades and passengers in the course of farming and ranching activities.
- Was not aware of the -2 amendments (**EXHIBIT B**) and

TAPE 75, A

006

supports bill as it came out of the House.

Issues discussed:

- Why youth should be allowed in the back of a pickup on a highway under any condition.
- Whether the bill would limit passengers in beds of pickup trucks limited to highways only.
- Whether there are broader restrictions in the Motor Vehicle Code.
- Whether there are statistics on deaths and injuries.

072

Sen. Susan Castillo

Testifies in support of the intentions of HB 2411-A (**EXHIBIT C**) and proposes the HB 2411-A2 amendments (**EXHIBIT B**).

107

Chair Harper

Asks how many of the 18 fatalities could have been prevented by this bill.

Sen. Castillo

Responds that she does not know.

100

Dale Staib

Fire Chief, Philomath Rural Fire Protection District #4 and testifies in support of HB 2411-A (**EXHIBIT D**).

155

Troy Buzalsky

Clackamas County Fire District #1. States that he is also acting as a messenger for the Metro Area Injury Prevention Coalition. Submits video (**EXHIBIT E, OVERSIZED EXHIBIT**).

Testifies in support of HB 2411-A (**EXHIBIT F**).

240

Joan Fairchild

Trauma Nurse Coordinator at Legacy Emanuel Hospital.

Testifies in support of HB 2411-A (**EXHIBIT G**).

318

Craig Allen

Administrator. Advises members that the committee has received testimony from two individuals who cannot attend today's meeting: James K. Lace, M.D., F.A.A.P., in support of HB 2411-A (**EXHIBIT I**), and Jody Hodson, Western Lane Ambulance District (**EXHIBIT J**).

320

Adrienne Green

Children's Injury Prevention Program Coordinator, Oregon Health Division. Testifies in support of HB 2411-A (**EXHIBIT H**). Comments on crash on Sauvie Island that resulted in the death of one youth and several injuries. Adds that another death occurred on a public roadway. Both victims were 18 years or younger.

370

Carla Levinski

Safety Belt Program Manager, Oregon Department of Transportation. Testifies in support of HB 2411-A (**EXHIBIT I**).

411

Issue discussed:

- Whether the "booster seat" legislation is moving.

TAPE 72, B

014

Glenn Chastain

Sergeant, Oregon State Police. Testifies in support of HB 2411-A:

- The bill will have a positive effect on transportation safety on the highways.
- The concern about parades has been addressed.
- The Oregon State Police support the concept of HB 2411-A.

Issues discussed:

029

- Whether lawful public protests would be exempted under the bill.

049

Kate Richardson

- Why those 19 and over are not covered by the bill.

Requestor of the bill. Explains the approach in HB 2411-A is an incremental approach. Felt there was a better chance of passage

if the bill applied only to minors.

Issue discussed:

- How one would know where someone is going, or if they are farming.

104 Michael Dale

Oregon Law Center. Testifies in opposition to HB 2411-A **(EXHIBIT L)**. Not in opposition to the idea of the bill, however, is in opposition to the House amendment that excluded farm workers from the protection of this bill. Farming is one of the most hazardous work places and is a place where a large number of youths work. **(EXHIBIT H)**. Thinks it sends a wrong message.

Issues discussed:

193

- Whether the federal law applies to all farms.
- Whether farm families are covered by the federal act.
- Whether federal law defines “seat.”

225

- Whether law enforcement can discern the age of a person who is fully clothed.

249

Tanner Sarsfield

- Whether an officer could detect the mission of the transport. Keizer resident. Comments that he wants to be able to ride in the back of a pickup truck when necessary to get to the baseball field. Suggests tests could be done on roads to determine if they are safe for people riding in the beds of pickup trucks.

360

Jean Underhill-
Wilkinson

Oregon Farm Bureau. Introduces Catie Cate representing the Oregon Cattlemen's Association. Comments:

- On working with Rep. Shetterly on concerns with the bill.
- She did not draft the House amendment but agreed to it and believes the Cattlemen's Association agreed to it.
- The farming community will have to deal with large federal safety issues in regard to trucking within the next couple of years.
- The farming community is sensitive to this because they feel they need the flexibility to transport people from field to field.
- Gives examples of situations where farm children ride in the beds of pickup trucks.
- Generally when farmers have full-time workers they have other means of transportation and do not rely on pickups to transport workers on a daily basis.
- Not in favor of the HB 2411–2 amendment because it takes away the flexibility that is provided in the HB 2422-A version.

TAPE 75, B

013

Issues discussed:

- What the understanding of the farmers is of how to comply under the federal act.
- Percentage of Oregon farms excluded under the federal act.
- Why exempt people in agriculture.
- Distance limitation of trips.
- Speed restriction.

035

056

070

Wilkerson

Comments that she cannot commit to any additional restrictions but would be willing to talk about them and would need to check with the Farm Bureau Transportation Committee to see how they

- 070 Katy Cate feel about additional restrictions.
Oregon Cattlemen's Association. Comments:
- The exemption in the bill is for a small percentage of people. Only one to two percent of the population is involved in agricultural practices.
 - Currently children are not allowed to be transported in the back of pickup trucks and this bill only allows an exemption for the minors involved in farming or ranching operations.
 - A pickup is the traditional vehicle of a farm or ranch and has multi-purposes; it carries tools and equipment needed to engage in the practices and will also be transporting the workforce.
 - Safety issue with having too many vehicles on a dry land harvest operation due to risk of fire.
 - May only have one vehicle to transport workers from field to field that are sometimes miles apart; a restriction on distance needs to be very flexible.
- Issues discussed:
- 110 Sen. Brown Asks if Cate is familiar with the Federal Migrant and Seasonal Farmworker Protection Act
Cate Responds she is not. Adds that the cattle operations are mainly family operations where several generations are working together and does not believe it applies to the majority of their workers.
- 118 Sen. Courtney Asks if the language in the bill, "upon a highway" means only vehicles that are on a highway.
- 140 Sen. Minnis Reads definition of "highway" in ORS 801.305.
Sen. Courtney Comments that it seems when they are going from field to field off-road a person can get killed as well as on a road but is not sure this would apply.
Sen. Minnis Comments his concern would be the definition of "highway" or those places that are "...a matter of right" where one has the right to drive. That would exclude anything that is private property. Adds that a premise that is "open to the public", as defined in ORS 801.400, includes places like parking lots that would generally be open to the public but are owned by private parties. The owners have the right to exclude whomever they choose because they own the property.
- 176 Sen. Brown Comments she is assuming if HB 2411-A as amended were passed with the exception for farm workers, the federal law still would apply to a certain percentage of Oregon farms. Thinks it would be confusing and very misleading to say one could carry minors in a farming situation in the back of a pickup truck when federal law would prohibit one from doing that.
- 188 Chair Harper Closes the public hearing on HB 2411-A and opens a public hearing on SM 2.

SM 2 – PUBLIC HEARING

202 Paul Cleary

Director, Water Resources Department (WRD). Introduces Barry Norris, State Engineer and head of the Technical Services Division. Submits list of dates and copies of correspondence between Governor Kitzhaber, U. S. Senator Gordon Smith, and the responses from the Secretary of Agriculture on the request for a drought declaration in Klamath County, and Executive Order No. EO 01-01 declaring a drought under the State Emergency

Declaration Act on March 27, 2001 (**EXHIBIT M**). Reviews chronology of events, efforts of the department, and permits issued (**EXHIBIT M**).

253 Explains that WRD does collect fees on the emergency permits and has collected close to \$18,000. States the agency does not have the ability to waive but does have the ability to refund fees. They are looking at the remaining budget for the rest of the year to try to identify a way to refund the fees.

Explains that the last page of their handout is an example of a drought plan they are working on. WRD is working on a cooperative agreement with the Bureau of Reclamation that involves \$99,000 from them and about \$30,000 Oregon contributions and in-kind.

279 States they have seen the SM 2-1 amendments (**EXHIBIT N**) and do support them.

Issues discussed:

282 Sen. Courtney Questions whether other counties in Sen. Harper's district should be included under the provisions of SM 2.

Barry Norris WRD states that they have received a request from Wasco County and believes the recommendation from the Drought Council has been sent to the Governor. WRD also received a request from Crook County and the Drought Council has gone back to Crook County for additional information.

Cleary Adds that it is possible the department will see additional requests but in Klamath County there is an unique combination of both the natural drought conditions due to lack of snow pack and the listing of the endangered species in the lake. The combination reduced the delivery from the irrigation project from 500,000 acre feet to 70,000 acre feet.

337 Chair Harper Closes the public hearing and opens a work session on SM 2.

SM 2 - WORK SESSION

341 Sen. Atkinson **MOTION: Moves to ADOPT SM 2-1 amendments dated 5/1/01.**

342 **VOTE: 5-0**
EXCUSED: 2 - L. Beyer, Minnis

Chair Harper Hearing no objection, declares the motion CARRIED.

343 Sen. Atkinson **MOTION: Moves SM 2 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.**

345 **VOTE: 5-0**
EXCUSED: 2 - L. Beyer, Minnis
Chair Harper Hearing no objection, declares the motion CARRIED.

SEN. HARPER will lead discussion on the floor.

348 Chair Harper Opens a public hearing on HB 2369.

HB 2369-A – PUBLIC HEARING

353 Dan Olson Member of the Executive Board, Government Law Section, Oregon State Bar. Testifies in support of HB 2369-A (**EXHIBIT O**).

424 Chair Harper Closes the public hearing and opens a work session on HB 2369-A.

HB 2369-A - WORK SESSION

427 Sen. Brown MOTION: Moves HB 2369A to the floor with a DO PASS recommendation.

427 VOTE: 6-0
EXCUSED: 1 - L. Beyer

Chair Harper Hearing no objection, declares the motion CARRIED.

SEN. COURTNEY will lead discussion on the floor.

435 Chair Harper Closes the work session on HB 2369-A and opens a work session on introduction of committee measures.

INTRODUCTION OF COMMITTEE MEASURES

439 Sen. Courtney MOTION: Moves LC 4259 BE INTRODUCED as a committee bill.

441 VOTE: 6-0
EXCUSED: 1 - L. Beyer

Chair Harper Hearing no objection, declares the motion CARRIED.

NOTE: LC 4259 IS INTRODUCED AS SB 970.

INTRODUCTION OF COMMITTEE LEGISLATIVE COUNSEL DRAFT REQUEST

445 Chair Harper Comments that he does not understand the reason for the drafting request (EXHIBIT P).

447 Sen. Brown Comments that her recollection is that the Senate has introduced fewer than 1,000 bills and the House has introduced over 3,000.
Chair Harper States that the committee can consider it on Thursday if there is a need for the request.

454 Chair Harper Adjourns meeting at 4:57 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Craig Allen,
Committee Administrator

EXHIBIT SUMMARY

- A - HB 2093, editorial, Rep. Close, 1 p
- B - HB 2411, HB 2411-A2 amendments, Sen. Castillo, 1 p
- C - HB 2411, prepared statement, Sen. Castillo, 1 p
- D - HB 2411, prepared statement, Dale Staib, 7 pp
- E - HB 2411, (OVERSIZED EXHIBIT), Troy Buzalsky, video tape
- F - HB 2411, prepared statement, Troy Buzalsky, 23 pp
- G - HB 2411, prepared statement, Joanne Fairchild, 1 p
- H - HB 2411, prepared statement, Adrienne Greene, 1 p
- I - HB 2411, prepared statement, James K. Lace, M.D., 1 p
- J - HB 2411, prepared statement, Jody Hodson, 1 p
- K - HB 2411, prepared statement, Carla Levinski, 5 pp
- L - HB 2411, prepared statement, Michael Dale, 5 pp

M - SM 2, prepared statement, Paul Cleary, 19 pp

N- SM 2, SM 2-1 amendments, Sen. Harper, 2 pp

O - HB 2369, prepared statement, Dan Olson, 4 pp

P - Introduction of Committee Legislative Counsel Draft Requests, staff, 1 p