

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

April 15, 1999 Hearing Room 357

1:00 p.m. Tapes 107 - 108

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

MEMBER EXCUSED: Rep. Randall Edwards

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: SB 67 - Work Session

HB 3304 - Public Hearing

HB 3462 - Public Hearing

HB 3576 - Public Hearing

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 107, A		

004	Chair Shetterly	Calls meeting to order at 1:12 p.m.
<u>SB 67 - WORK SESSION</u>		
010	Counsel Felton	SB 67 allows Chief Justice of Supreme Court to make rules for use of electronic applications in courts. Presents the -3 and -4 amendments. (EXHIBITS A & B).
024	Bradd Swank	State Court Administrator's Office, Department of Justice (DOJ) Explains the -3 amendments which grants broad authority to the Chief Justice to make rules for electronic applications in the courts.
053	Rep. Williams	MOTION: Moves to ADOPT SB 67-3 amendments dated 04/13/99.
	Chair Shetterly	VOTE: 8-0 AYE: 8 - Backlund, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly EXCUSED: 1 - Edwards
	Chair Shetterly	The motion CARRIES.
060	Rep. Lowe	Explains that the attorneys of the State of Oregon are working for the people of Oregon. Discusses why SB 67-4 should be adopted.
089	Swank	Explains the DOJ's concern with SB 67 regarding the unifying principle of the authority of the Chief Justice with all government agencies. Gives an example of a Supreme Court case <i>McIntire vs. Forbes</i> to explain the DOJ's concern.
139	Rep. Lowe	Discusses letter from David Heynderickx, Deputy Legislative Counsel regarding the Legislative Counsel's opinion that the -4 amendments do not violate the one-subject rule of the Oregon constitution.
149	Rep. Uherbelau	Expresses her opposition to the -4 amendment.
167	Rep. Lowe	Discusses that prosecutors work for the people.
178	Rep. Uherbelau	Agrees that there are some prosecutors that forget their role of working for the people, but SB 67-4 cannot change that.
198	Chair Shetterly	States that SB 67-4 will go back to Senate for concurrence.

214	Rep. Witt	MOTION: Moves to ADOPT SB 67-4 amendments dated 04/14/99.
216	Rep. Williams	States that SB 67 needs to be decided upon by the Civil Law Committee.
233	Rep. Witt	SB 67 is clear and specific as to who is being represented which are the people of Oregon.
		VOTE: 7-1 AYE: 7 - Backlund, Lowe, Walker, Wells, Williams, Witt, Shetterly NAY: 1 - Uherbelau EXCUSED: 1 - Edwards
	Chair Shetterly	The motion CARRIES.
244	Rep. Williams	MOTION: Moves SB 67 to the floor with a DO PASS AS AMENDED recommendation.
246	Chair Shetterly	VOTE: 8-0 AYE: 8 - Backlund, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly EXCUSED: 1 - Edwards
	Chair Shetterly	The motion CARRIES. REP. LOWE will lead discussion on the floor.
257	Chair Shetterly	Closes work session.
<u>HB 3304 n PUBLIC HEARING</u>		
260	Counsel Felton	HB 3304 authorizes impoundment of vehicle operated by person arrested or issued citation for driving while under the influence of intoxicants or for criminal driving while suspended if suspension resulted from driving while under the influence of intoxicants.
280	Rep. Wells	Discusses a situation where an individual's car was impounded due to an expired

		license and how that situation relates to HB 3304.
324	Rep. Uherbelau	HB 3304 deals with those that drive intoxicated. Asks if language describing the situation of driving while not licensed because of lapse of renewal can be incorporated into HB 3304.
349	Rep. Wells	States that this situation is dealt with differently according to city ordinances.
359	Chair Shetterly	Does HB 3304 amend ORS 890.720 concerning impoundment of a vehicle? Will there be two impoundment statutes?
373	Rep. Uherbelau	Legislative Counsel will be looking at the problem of two statutes addressing the same issue of vehicle impoundment.
374	Chair Shetterly	What defines a "rural area" as stated on line 22, page 1 of HB 3304?
378	Rep. Uherbelau	Explains the situation where individuals have their vehicle impounded where there is no public transportation available.
394	Rep. Wells	Discusses the concern of impounding vehicles in rural areas.
403	Rep. Uherbelau	The State Police see vehicle impounding as a financial burden because they have to construct impounding lots to hold vehicles.
420	Chair Shetterly	One of the concerns in the 1997 session was the effect of the vehicle impoundment on other members of the family.
433	Rep. Wells	Asks about the security interest in impounded vehicles.
435	Rep. Uherbelau	Explains the lien holder's interest in selling an impounded vehicle.
447	Rep. Wells	What if the impounded vehicle is held for a year?
449	Rep. Uherbelau	There should not be any situation where a vehicle is held for one year.
459	Chair Shetterly	Closes public hearing.
<u>HB 3576 n PUBLIC HEARING</u>		
464	Counsel Felton	HB 3576 exempts from public disclosure information that would adversely affect public sale or purchase of electric power. Presents the n1 amendment (EXHIBIT C).

Tape 108, A

030	Diane Cowan	Oregon People's Utility District Association (OPUDA) Testifies and submits written testimony in support of HB 3576 (EXHIBIT D). Discusses the effect of HB 3576 with power sales and purchases of Public Utility Districts (PUD) and municipal electric utilities.
065	Tom O'Connor	Oregon Municipal Electric Utilities (OMEU) Testifies and submits written testimony in support of HB 3576 (EXHIBIT E). Explains what confidential information is included in public utility bills.
110	Lori Brocker	Oregon Newspaper Publishers Association (ONPA) Testifies and submits written testimony in opposition of HB 3576 (EXHIBIT F). Discusses why the ONPA opposes HB 3576 concerning piecemeal erosion of the public records law. States that HB 3576 contains a lot of similar language as SB 1149.
158	Rep. Williams	With the coming of utility deregulation, do you think it is fair that the utilities keep their customer list to themselves?
167	Brocker	States that government's business is the public's business. Explains how public utility business is the newspaper's business.
188	O'Connor	Discusses the similar language in SB 1149.
200	Cowan	States that the Public Utility Districts have been extremely respectful of public records law. The OPUDA feels HB 3576 is necessary to protect the utility customer's information.
207	Rep. Uherbelau	Asks about amending HB 3576 to create a balance with those that would be exempt from the public records law.
220	Chair Shetterly	Discusses ORS 191 and ORS 192 and the relationship to HB 3576.
226	Brocker	Explains the request that is made on a local level to the District Attorney for any exemptions to the public records law.
233	O'Connor	Discusses who is exempt from disclosure of public records.
243	Vice-Chair Williams	Suggests that municipal utilities and the Public Utility District work with Mr. Felton on creating an amendment concerning who is exempt from the bill.

250	Rep. Backlund	States that we do have exemptions, it should not be too broad of language to cause a loss of public access to records.
266	Rep. Witt	Discusses what utility information should be made public.
280	Rep. Lowe	Asks about police having access to the utility records.
297	Cowan	Explains the intent of HB 3576 concerning police access to utility records.
310	Brocker	States that there are current provisions that protect proprietary information. Discusses the well-intentioned laws regulating disclosure of public records that have potential negative consequences for the public.
349	Vice-Chair Williams	Closes public hearing.
<u>HB 3462 n PUBLIC HEARING</u>		
360	Rep. Jane Lokan	State Representative, House District 25 Testifies and submits written testimony on behalf of Steve Gilmore in support of HB 3462 (EXHIBIT G). Explains the purpose of HB 3462 which addresses the issue of drive-by shootings. Discusses the impact of shootings when a vehicle is involved. Gives statistics regarding drive-by shootings. There would be an additional message sent by taking away the vehicle of a drive-by shooter. Explains the where the proceeds would go from the sale of the car used in the drive-by shooting.
Tape 107, B		
039	Rep. Uherbelau	Do our current forfeiture laws for vehicles involved in a crime include drive-by shootings?
045	Allen Hagman	Sergeant, Oregon State Police I do not know.
058	Karen Holton	Asset Forfeiture Oversight Advisory Committee The current forfeiture law does not cover drive by shootings.
062	Vice-Chair Williams	Would a vehicle that was involved in a drive-by shooting with just guns and no drugs be seized?
069	Rep. Lokan	Yes.

070	Rep. Lowe	Could HB 3562 be amended to include other weapons and explosive devices?
079	Rep. Lokan	Yes.
081	Vice-Chair Williams	Has there been a drive-by shooting with a weapon other than a gun?
084	Hagman	Pellet guns and homemade weapons have been used for drive-by shootings.
088	Vice-Chair Williams	Is a pellet gun considered a firearm or an unlawful weapon according to current law?
093	Hagman	I am not sure.
094	Rep. Witt	On line 4, page 1 of HB 3462 does "knowledge of the owner" imply "consent of the owner" regarding use of the vehicle in a drive-by shooting?
103	Vice-Chair Williams	States that if a person saw their car being stolen out of a parking lot, they would have the knowledge of their car being stolen, but there would not be consent.
108	Rep. Wells	Why are cars being seized for drug issues, and not for anything else?
116	Holton	Taking away the vehicle takes away the ability to trade drugs.
123	Rep. Wells	Discusses the different reasons for civil forfeiture.
144	Rep. Uherbelau	States that seizing a vehicle to stop drug trading is the same as taking away a vehicle used in a drive-by shooting. Discusses the small amount of revenue collected selling confiscated vehicles involved in crimes.
169	Vice-Chair Williams	Discusses what changes needs to be amended into HB 3462 regarding the suggestions made by the committee.
185	Rep. Wells	Asks about the Forfeiture Council's relationship to HB 3462.
191	Holton	Explains the circumstances of forfeiture that would be studied by the Forfeiture Council.
199	Rep. Wells	Explains revenue taken from drug crimes.
209	Rep. Lokan	Discusses how HB 3462 is a deterrent for drive by shootings.

230	Vice-Chair Williams	Discusses HB 2610's relationship to HB 3576 regarding forfeitures.
244	Vice-Chair Williams	Closes public hearing. Adjourns meeting at 2:55 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,
Administrative Support Counsel

EXHIBIT SUMMARY

- A - SB 67, Proposed -3 amendments, Counsel, p. 1**
- B - SB 67, Proposed -4 amendments, Counsel, p. 1**
- C - HB 3576, Proposed -1 amendments, Counsel, p. 1**
- D - HB 3576, Written testimony, Diane Cowan, p. 1**
- E - HB 3576, Written testimony, Tom O'Connor, p. 3**
- F - HB 3576, Written testimony, Lori Brocker, p. 1**
- G - HB 3462, Written testimony, Rep. Jane Lokan, p. 2**
- H - HB 3462, Written testimony, Steve Gilmore, p. 1**

