

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

April 05, 1999 Hearing Room 357

1:00 p.m. Tapes 89 - 91

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

Joel Parker, Extern

MEASURE/ISSUES HEARD: HB 3190 - Public Hearing

HB 2731 - 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 89, A		
004	Chair Shetterly	Calls meeting to order at 1:08 p.m.
<u>HB 3190 n PUBLIC HEARING</u>		

028	Mr. Parker	HB 3190 requires State Fire Marshall to establish application and examination procedures for certification of persons possessing transporting and storing explosives.
050	Rep. Floyd Prozanski	State Representative, House District 40 Testifies in support of HB 3190. Discusses the history and explains the purpose of HB 3190. Relates an incident involving improper storage of explosives. Explains the ñ1 amendments to HB 3190 (EXHIBIT A).
140	Dale Young	Youngís, Inc. Testifies and submits written testimony in support of HB 3190 (EXHIBIT B). Discusses how HB 3190 would regulate explosive product safety.
183	Jerry Wallace	Explosives Advisory Committee Testifies and submits written testimony in support of HB 3190 (EXHIBIT C). Discusses the storage and inspection of explosive storage magazines. States that HB 3190 would bring Oregonís laws into similarity with other states and would improve public safety without increased costs.
215	Dick Daniel	Explosive Technical Service, Inc. Testifies in support of HB 3190 and submits written testimony on behalf of Ronald Baldwin who opposes to HB 3190 (EXHIBIT D). Discusses the danger of explosives and the need for protection. Expresses why the explosive industry supports HB 3190.
296	Rep. Walker	What does Mr. Baldwin mean in his testimony about HB 3190 not having consensus of the industry?
302	Daniel	Explains why Mr. Baldwin does not think HB 3190 has industry consensus.
320	Rep. Walker	How many were on the Explosives Advisory Committee?
321	Daniel	There were between 12 and 15 members.
327	Rep. Williams	Asks about current federal laws covering the issues of transporting and storing explosives as stated in Mr. Baldwinís written testimony.
334	Wallace	Explains the federal law concerning the storage and transportation of explosives and the loophole in the federal law.
382	Jeff Howard	Arsenal Explosives Section, Oregon State Police (OSP) Testifies and submits written testimony in support of HB 3190 (EXHIBIT E). Explains the damage that can be caused by improperly stored explosives.

		Discusses the OSP's concerns regarding explosives.
452	Tari Glocar	Office of State Fire Marshall, Oregon State Police Testifies and submits written testimony in support of HB 3190 (EXHIBIT F). Discusses the requirements for persons applying for a certificate of possession for explosives.
Tape 90, A		
040	Glocar	Explains the process of transporting magazines between counties in Oregon.
056	Rep. Wells	How long does it take to get a certificate of possession for explosives?
061	Glocar	It would take about 30 minutes if the person applying has no criminal history. It would take a lot longer if there is a criminal history or information is missing on the application.
068	Rep. Wells	Is this the same procedure all over Oregon?
070	Glocar	All applications are sent to Salem at the State Fire Marshall's Office and the procedure is the same for everyone.
072	Rep. Wells	What is the time line to receive a certificate to possess explosives?
074	Glocar	Explains the procedure to be certified to possess explosives.
096	Chair Shetterly	Is HB 3190 the same bill that was heard during the 1997 legislative session?
100	Glocar	Yes, with a few modifications.
106	Rep. Wells	What were the concerns with HB 3190 in 1997?
108	Glocar	Explains the concerns brought up in the 1997 legislative session regarding HB 3190.
118	Chair Shetterly	Was the Farm Bureau concerned with the original HB 3091?
119	Glocar	Yes. The Farm Bureau's concern was with the language concerning passing an exam for certification.
122	Rep. Wells	Asks about the language with HB 3091 that addresses the exam for certification.

125	Glocar	States that the exam is addressed under "performance standards" in HB 3091.
133	Chair Shetterly	Explains the history of HB 3190 in the 1997 session.
142	Glocar	The Explosives Advisory Committee will conduct the exam for certification.
148	Rep. Witt	What will the registration and application fees be in section 16 of HB 3190?
152	Glocar	Discusses what the fees will be for inspection and registration of explosive magazines.
170	Young	Discusses why an exam and registration are needed for explosive safety.
217	Wallace	Discusses the goal of the International Society of Explosives Engineers regarding explosive safety.
238	Chair Shetterly	Closes public hearing.
<u>HB 2731 n PUBLIC HEARING</u>		
258	Counsel Felton	HB 2731 prohibits specified persons from recording or reporting depositions in civil actions, including person who has contract with party to provide reporting services, or who has contract with person with financial interest in action (EXHIBIT G) .
274	Rep. Vicki Walker	State Representative, House District 41 Testifies in support of HB 2731. Discusses why HB 2731 was proposed. Explains the importance of impartiality for court reporters.
302	Carl Myers	Oregon Court Reporters Association Testifies and submits written testimony in support of HB 2731 (EXHIBIT H) and submits written testimony on behalf of Stacy Hankin in support of HB 2731 (EXHIBIT I) . Discusses how partiality of the court reporter could effect the deposition process. Explains the -2 amendments of HB 2731.
375	Lynn Ashcroft	Private Attorney, Salem, Oregon Testifies in support of HB 2731. Gives examples of court reporter's relationship to attorneys regarding impartiality. Explains the problems with using contracted court reporters.
Tape 89, B		

040	Chair Shetterly	Would HB 2731 stop law firms from using the same court reporters?
050	Ashcroft	HB 2731 does not address that issue.
053	Rep. Walker	Explains the rates charged for court reporting.
062	Rep. Uherbelau	Asks about HB 2731 solving the problem of using contracted court reporters. Asks about a deposition where the opposing side used their own court reporter and would not cooperate.
076	Ashcroft	Explains how HB 2731 solves the problem of contracting court reporters. The opposing side of a deposition wants to use their own court reporter, instead of the one provided.
080	Rep. Uherbelau	States that if it was your own deposition, then you can use your own court reporter.
087	Ashcroft	Explains why HB 2731 solves the problem of hiring a person's own court reporter. Explains the process of court transcripts and the importance of the court reporter's neutrality.
123	Rep. Witt	If an attorney had an agreement with a court reporter to provide services, would this bar the attorney from using this court reporter in a court case?
128	Myers	Yes, but case by case basis. Discusses contracts for multiple court cases. Explains that HB 2731 bars long-term contracts with court reporters.
147	Rep. Witt	Is it the attorney who schedules the deposition that hires the court reporter?
148	Ashcroft	Yes.
149	Rep. Witt	Is the other party allowed to object to who is hired as court reporter?
150	Ashcroft	No.
152	Rep. Witt	Is there any evidence that bias has been a problem in court reporting?
153	Myers	States that there will be witnesses testifying regarding the bias problem in other states. Explains the problems in Oregon with the bias problem.
166	Rep. Witt	Asks about the broad manner that HB 2731 addresses the bias issue with court reporters.

173	Myers	Explains the appearance of bias in depositions with the hiring of a contracted court reporter. States that the issue of a court reporter remaining impartial and independent in court matters is a nationwide problem, mostly in metropolitan areas.
201	Ashcroft	Explains the concern with contracted court reporters being called as a witnesses.
231	Rep. Williams	Discusses the relationship between attorneys and court reporters.
253	Rep. Uherbelau	Asks about hiring the same court reporter when there are several different depositions in one day.
262	Myers	Discusses incidents where there is one case regarding multiple depositions.
302	Rep. Uherbelau	Asks about court situations when the deposition is used as evidence in civil cases.
312	Myers	States that Legislative Counsel introduced the language regarding deposition evidence. Explains when the depositions would be excluded as evidence.
327	Rep. Uherbelau	Asks about the clarity of the exceptions included in HB 2731 regarding when deposition evidence is not used.
333	Myers	Explains the exceptions for using depositions for evidence.
362	David Ohmart	National Court Reporters Association (NCRA) Testifies in support of HB 2731. Discusses the integrity and accuracy in depositions regarding ethics standards for court reporting. States that there is a national problem of padding court reporter bills by attorneys. There is preferential treatment given to court reporters for long term contracts. Gives examples of cases in other states where court reporters have quit long-term contracts because of professional ethics.
458	Rep. Wells	What are depositions?
464	Ohmart	Explains a deposition.
472	Rep. Wells	Asks if a deposition is like a trial before a court trial.
482	Ohmart	Describes the importance of the different kinds of deposition hearings.
Tape 90, B		

040	Rep. Wells	States that it seems like the trial is already commencing with the information already recorded in a deposition.
047	Terri Mundt	Oregon Court Reporters Association (OCRA) Testifies and submits written testimony in support of HB 2731 (EXHIBIT J). Discusses the problems with national court reporter companies having contracts with insurance companies. Describes how HB 2731 keeps court reporters within ethical standards.
093	Rep. Uherbelau	Asks about the depositions that are pertinent to a court case.
099	Mundt	States that the depositions are not public record until they are presented at trial.
102	Rep. Uherbelau	Asks about depositions being recorded only by an independent court reporter contract.
109	Ohmart	Discusses why other states have had to tighten up the language in the law regarding independent contractors. Explains the language regarding the exceptions for depositions.
132	Rep. Uherbelau	Are there copies of other states legislation concerning regulation of court reporting?
134	Ohmart	Yes, and those copies will be presented to the committee at a later date.
138	Rep. Witt	What is the motivation of the law firms that contract court reporting services?
140	Ohmart	The law firms are the middlemen between companies wanting court reporter service and the court reporting company. The law firms promise lower rates and try to control the deposition business.
147	Rep. Witt	What is the motivation for the companies that work with the law firms?
150	Mundt	The motivation for the insurance companies is for lower rates on depositions. Discusses the issue of control regarding the court transcripts.
164	Rep. Witt	Does a client have control over the deposition once it is paid for?
166	Ohmart	No. The deposition is not public record and is privileged until introduced in court.
173	Mundt	States that only certain people are allowed to attend a deposition.

176	Rep. Witt	Who owns the transcript once it is paid for?
179	Mundt	That is a question that our attorney should answer.
183	Rep. Williams	Who chooses the court reporter?
192	Ohmart	Discusses an insurance company's advertisement showing court reporters. Explains the confidentiality of depositions.
217	Mundt	Gives examples of depositions given to the media.
224	Ohmart	States that there is a statute that requires privacy of a deposition.
233	Rep. Witt	States that all depositions can be made public at trial.
237	Clara Corliss	Oregon Court Reporters Association (OCRA) Testifies and supports HB 2731. Expresses why OCRA supports HB 2731.
259	Rep. Williams	Does free lance court reporting prohibit any business with courts?
261	Corliss	No.
262	Rep. Walker	Explains the exceptions in HB 2731 of who may record a deposition in a civil action.
282	Paul Romain	National Court Reporters Association (NCRA) Testifies and submits written testimony in opposition of HB 2731 (EXHIBIT K). Discusses the reasons why NCRA opposes HB 2731. Discusses the four principles of NCRA's Code of Professional Ethics to satisfy their professional, ethical and legal obligations. States that a court reporter's ethics can control neutrality for contracts.
365	Jenny Pietka	Court Reporter, Oregon Testifies in opposition of HB 2731. Discusses the process of contracting independent court reporting business. Discusses fees for court reporting. Explains who should hire the court reporter.
Tape 91, A		
040	Pietka	Discusses the conscientiousness of court reporters regarding conflict of interests.

069	Rep. Walker	Asks about the transcript format that Ms. Pietka uses.
072	Pietka	Explains the court reporter's regulations regarding court transcripts.
082	Rep. Walker	Do you sign transcripts with your own certification page?
086	Pietka	Yes.
087	Rep. Walker	Do you prepare the transcript yourself? What clients do you serve?
089	Pietka	Yes, I do prepare the transcript myself. Explains her clientele.
094	Rep. Walker	Asks about transcript fees.
096	Pietka	Discusses the rate structure regarding transcripts in Oregon in comparison to the East coast.
108	Rep. Walker	How do you adjust the transcript fees if it is ordered at a later date?
109	Pietka	Describes the fee process for late transcript requests. Discusses that Marinete is one of the biggest court reporter agencies in the country.
119	Chair Shetterly	Closes public hearing.
127	Chair Shetterly	Adjourns meeting at 3:06 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

Administrative Support Counsel

EXHIBIT SUMMARY:

- A - HB 3190, Proposed -1 amendments, Counsel, p. 1**
- B - HB 3190, Written testimony, Dale Young, p. 2**
- C - HB 3190, Written testimony, Jerry Wallace, p. 1**
- D - HB 3190, Written testimony, Ronald Baldwin, p. 2**
- E - HB 3190, Written testimony, Jeff Howard, p. 4**
- F - HB 3190, Written testimony, Tari Glocar, p. 2**
- G - HB 2371, Proposed -2 amendments, Counsel, p. 2**
- H - HB 2731, Written testimony, Carl Myers, p. 28**
- I - HB 2731, Written testimony, Stacy Hankin, p. 1**
- J - HB 2731, Written testimony, Terri Mundt, p. 2**
- K - HB 2731, Written testimony, Paul Romain, p. 2**