

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

April 07, 1999 Hearing Room 357

1:00 p.m. Tapes 96 - 98

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2316 - Work Session

HB 2180 - Public Hearing & Work Session

HB 3572 - Public Hearing

HB 2659 - Public Hearing & Work Session

SB 374A - Public Hearing & 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 96, A

003	Chair Shetterly	Calls meeting to order at 1:10 p.m.
<u>HB 3572 n PUBLIC HEARING</u>		
023	Rep. Lane Shetterly	State Representative, House District 34 Testifies and submits written testimony in support of HB 3572 (EXHIBIT A). Explains the function of the Oregon Law Commission (OLC) and who the members are. Explains that HB 3572 is the proposal to provide funding for the Executive Director and related services to the Oregon Law Commission.
137	David Kenagy	Associate Dean, Willamette College of Law Testifies in support of HB 3572. Discusses what Willamette College of Law will contribute funding and support for the Oregon Law Commission.
189	Rep. Edwards	Asks about the funding for HB 3572.
194	Rep. Shetterly	Explains funding request.
204	Rep. Wells	Why wasn't the funding part of Chapter 661 which was the original bill?
213	Rep. Shetterly	Discusses why funding was not included in the initial legislation.
239	Rep. Wells	What is the current policy for reviewing statutes?
246	Rep. Shetterly	Explains the relationship of the Oregon State Bar to the legislature and the review of statutes.
268	Rep. Uherbelau	Asks about the members of the Oregon Law Commission in relationship to the Oregon State Bar Committees and their contribution to the preparation of legislation.
298	Rep. Shetterly	Discusses how the members of the commission contribute expertise to a broader range of subjects.
324	Vice-Chair Williams	States that there are subjects that the OLC handles that the Oregon Bar committees do not.
337	Rep. Lowe	What were the bids for the OLC administration from the other law schools?

348	Rep. Shetterly	Explains what proposals were offered to the OLC.
360	Rep. Lowe	Was the proposal from the University of Oregon competitive?
362	Rep. Shetterly	No, it was not. Explains why the U of O proposal was not competitive with Willamette University proposal.
374	Rep. Lowe	Who would receive compensation for their services to the OLC?
382	Rep. Shetterly	Explains the compensation plan for the OLC Executive Director.
394	Hardy Myers	Attorney General, Department of Justice Testifies in support of HB 3572. Discusses the purpose of the OLC. States that the OLC is a recommending body for statutes. Expresses support for HB 3572.
484	Vice-Chair Williams	Explains how the OLC helps relieve the workload of the Legislative Counsel office.
Tape 97, A		
038	Rep. Wells	What is the money collected from trial and court fees used for?
042	Rep. Shetterly	The fees go into the state's General Fund.
048	Rep. Edwards	Is the contract between the OLC and Willamette University renewed annually?
051	Rep. Shetterly	The contract will be renewed on a biannual basis.
052	Rep. Edwards	Asks about the commitment of the OLC regarding the contract with Willamette Law School.
058	Rep. Shetterly	Explains the long-term commitment of the OLC and the Willamette Law School.
064	Rep. Lowe	How will the funds for the OLC be used?
070	Kenagy	Explains the OLC budget.
083	Rep. Shetterly	The funding collected from court fees is to pay the Executive Director of OLC. Commission members are not compensated.

091	Myers	Not only does the funding pay the Executive Director, but pays the assistant to the director, the office space, and the interns for research.
108	Rep. Lowe	States that the funding for the OLC will be a year long expense.
119	Karen Hightower	State Court Administrator's Office, Oregon Judicial Department (OJD) Testifies and submits conceptual amendments and submits written testimony on behalf of Kingsley Click in neutrality of HB 3572. (EXHIBITS B & C) . Explains the mechanics of HB 3572. Discusses the changes that OJD would like made to HB 3572.
149	Vice Chair Williams	Closes public hearing.
<u>SB 374A n PUBLIC HEARING</u>		
160	Counsel Felton	SB 374A allocates moneys for program to mediate disputes between dealers and buyers of used motor vehicles.
172	Pete Shepherd	Financial Fraud/Consumer Protection, Department of Justice (DOJ) Testifies and submits written testimony in support of SB 374A (EXHIBIT D) . Discusses why DOJ supports SB 374A and how it will fund a program that will involve car dealers to find a more efficient way to resolve disputes. The Oregon Automobile Dealers Association supports SB 374A.
201	Rep.Uherbelau	What were the objections of the nine "no" votes in the Senate for SB 374A.
203	Shepherd	Explains the concerns of some of the Senators regarding the revolving account to fund SB 374A.
228	Monty King	Oregon Independent Auto Dealers (OIADA) Testifies in support of SB 374A. Explains the sunset law to SB 374A.
246	Bob Herman	Oregon Independent Auto Dealers (OIADA) Testifies in support of SB 374A. Discusses the need for the program to mediate disputes between dealers and consumers.
278	Rep. Witt	Will this mediation program be voluntary and non-binding?
281	Shepherd	Yes, that is correct.
284	Rep. Witt	Will there be a charge for individuals using the mediation service?

286	Shepherd	Explains the recovery of costs for those that participate in the mediation process.
301	Rep. Witt	Are there any statistics on how many lawsuits will be avoided by using this mediation program?
304	Shepherd	It was estimated that \$35,000 would fund about 100 mediations, but it is not known how many would end up a lawsuit.
325	Rep. Lowe	Expresses her support of SB 374A.
350	Rep. Wells	Why would there be a need for a mediation program when there is the Dispute Resolution Commission?
358	Shepherd	Explains the functions of the Dispute Resolution Commission and why it isn't available for car dealer disputes.
377	Rep. Wells	Where does the Dispute Resolution Commission get funding?
378	Shepherd	I do not know.
384	Chair Shetterly	Closes public hearing.
<u>SB 374A n WORK SESSION</u>		
395	Rep. Lowe	MOTION: Moves SB 374A to the floor with a DO PASS recommendation.
		VOTE: 9-0 AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly
Chair Shetterly		The motion CARRIES. REP. WALKER will lead discussion on the floor.
<u>HB 2180 - PUBLIC HEARING</u>		
408	Counsel Felton	HB 2180 specifies standing requirements for association of organization seeking judicial review of certain final orders of Department of Environmental Quality or

		Environmental Quality Commission.
422	Langdon Marsh	Oregon Department of Environmental Quality (DEQ) Testifies and submits written testimony in support of HB 2180 (EXHIBIT E). Explains the federal Clean Air Act Notice and the requirement to the State of Oregon to provide judicial review of "Title V" air quality permits which apply to larger industrial plants.
Tape 96, B		
040	Marsh	Discusses the federal air permit program.
053	Lauri Aunan	Oregon Department of Environmental Quality (DEQ) Testifies in support of HB 2180. States that the DEQ has worked with Associated Oregon Industries about their concerns regarding HB 2180.
058	Rep. Lowe	Is it necessary to pass HB 2180?
059	Marsh	Yes, it is necessary because of the way federal regulations work.
064	Rep. Lowe	Will the federal Environmental Protection Agency (EPA) take over Oregon Clean Air Act enforcement program if HB 2180 does not pass?
067	Marsh	Yes, as well as other sanctions.
070	Rep. Lowe	What other sanctions?
071	Marsh	Federal highway funds will be withheld.
079	Rep. Lowe	What would the total lost revenue be lost if the federal highway funds were taken away?
081	Marsh	I do not know.
092	Rep. Witt	What is the appeal process for the EPA federal requirement in the State of Oregon?
095	Marsh	It would be premature for an appeal process. Explains the opinion of the Attorney General regarding the how the Clean Air Act of Oregon is operated.
112	Rep. Witt	If HB 2180 does not pass, will EPA move forward with takeover of the Oregon

		Clean Air Act enforcement program?
117	Marsh	Yes, the next step would be the Notice of Deficiency of the Title V program.
120	Rep. Witt	Would the DEQ appeal that notice?
122	Marsh	Yes.
127	Rep. Witt	Are there any other states dealing with this issue of Title V permits and how are they dealing with it?
130	Marsh	I do not know of any other state.
140	Kathryn VanNatta	Northwest Pulp & Paper Association (NWPPA) Testifies and submits written testimony in support of HB 2180 (EXHIBIT F). States that the members of the NWPPA hold Title V air operating permits. Expresses the support of NWPPA for HB 2180 because the regulating of the permits should be on a state level.
156	John Ledger	Associated Oregon Industries (AOI) Testifies and submits written testimony in support of HB 2180 (EXHIBIT G). States that members of AOI are Title V permit holders.
167	Paul Cosgrove	American Forest and Paper Association (AFPA) Testifies in support of HB 2180. Explains the similarities of HB 2180 and ORS 183.480. Expresses the support of AFPA to HB 2180 regarding the regulation of the Title V permits at the state level.
182	Rep. Lowe	What will the amount of lost federal highway funding be if HB 2180 does not pass?
187	Cosgrove	I do not know. States that the EPA's threat to take away highway funding is a serious issue.
199	Chair Shetterly	Closes the public hearing.
<u>HB 2180 - WORK SESSION</u>		
202	Rep. Lowe	MOTION: Moves HB 2180 to the floor with a DO PASS recommendation.

		<p>VOTE: 9-0</p> <p>AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</p>
	Chair Shetterly	<p>The motion CARRIES.</p> <p>REP. BACKLUND will lead discussion on the floor.</p>
210	Chair Shetterly	Closes work session.
<u>HB 2659 - PUBLIC HEARING</u>		
219	Counsel Felton	HB 2659 allows parties to support orders to initiate court proceedings to modify support obligations in same manner as public enforcement agencies. The -1 amendments require that written notice be provided to the Support Enforcement Division prior to action being filed in court (EXHIBIT H).
232	Rep. Kathy Lowe	<p>State Representative, House District 26</p> <p>Testifies in support and discusses HB 2659. States that those in opposition of HB 2659 are in support of the -1 amendments. States that HB 2659 provides equal protection to children with a 2-year review of child support.</p>
276	Ronelle Shankle	<p>Support Enforcement Division, Department of Justice (DOJ)</p> <p>Testifies in support and discusses the DOJ's concerns with HB 2659 regarding modifications of child support. States that DOJ is in support of the -1 amendments.</p>
295	Rep. Uherbelau	Asks about the court system's workload if HB 2659 passes.
343	Bradd Swank	<p>State Court Administrator's Office, Department of Justice (DOJ)</p> <p>Testifies in support of HB 2659. Discusses the workload for the court system with the passage of HB 2659.</p>
402	Chair Shetterly	States that there was no fiscal impact statement for HB 2659.
404	Swank	There was a fiscal impact, but it was under \$50,000.
430	Rep. Uherbelau	Will the fiscal impact to HB 2659 be effected because of the new guidelines that will be enacted on March 1, 1999?

437	Swank	No, the new guidelines were not included in the fiscal impact. Discusses how difficult the fiscal impact is to determine.
455	Shankle	Explains that the new guidelines will not effect any costs.
473	Rep. Uherbelau	Asks about court appeals effecting the fiscal impact.
Tape 97, B		
027	Swank	States that a lot of the appealed cases have more to do with custody issues and will not affect the fiscal impact of HB 2659.
042	Chair Shetterly	Do you see a need to resubmit the fiscal impact statement on HB 2659?
045	Swank	Not right now.
058	Rep. Lowe	Explains the process in Clackamas County and how the bulk of the custody and support cases are handled by a group of lawyers.
073	Shankle	Explains the process of judicial review for child support modifications at SED.
090	Rep. Lowe	States that HB 2659 will effect the more difficult child support cases.
105	Chair Shetterly	Closes public hearing.
<u>HB 2659 n WORK SESSION</u>		
110	Rep. Lowe	MOTION: Moves to ADOPT HB 2659 -1 amendments dated 03/23/99.
		VOTE: 9-0 AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly
	Chair Shetterly	The motion CARRIES.
119	Rep. Lowe	MOTION: Moves HB 2659-1 to the floor with a DO PASS AS AMENDED recommendation.

		<p>VOTE: 9-0</p> <p>AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</p>
	Chair Shetterly	<p>The motion CARRIES.</p> <p>REP. LOWE will lead discussion on the floor.</p>
<u>HB 2316 - PUBLIC HEARING</u>		
127	Counsel Felton	HB 2316 specifies that the definition of collection agency includes persons collecting debts owed public agencies (EXHIBIT I). The -3 amendments encompass the -1 and -2 amendments. The -3 amendments allow Department of Consumer and Business Services to waive the requirement for a public agency if necessary.
137	Jim Markee	<p>Oregon Collectors Association (OCA)</p> <p>Testifies in support of HB 2316. Discusses the language changes to HB 2316 with the proposed amendments. Discusses the loan programs and the collection agencies used by colleges in the State of Oregon.</p>
199	Rep. Uherbelau	Do the contracts between the Oregon and their collection agencies?
207	Markee	Yes.
215	Lisa Zavala	<p>Government Relations, Oregon University System (OUS)</p> <p>Testifies in opposition of HB 2316. Explains that the universities are opposed to HB 2316 because of the strict federal regulation regarding loan collections.</p>
236	Rep. Uherbelau	Asks about the -3 amendments that allow the registration requirements to be waived.
242	Zavala	Explains why the decision to allow or not allow the federal requirements to be waived would be up to the collection agencies.
249	Rep. Edwards	Is HB 2316 a remedy for the problem of registering out-of-state collection agencies?
252	Zavala	Yes. Discusses the concerns about whether collection agencies in other states will be willing to comply with registration requirements.

270	Markee	Discusses the requirements for out-of-state collection agencies to register in Oregon.
301	James Kruger	Department of Consumer & Business Services (DCBS) Explains why DCBS proposed SB 215 in 1997 legislative session concerning exempting out-of-state collection agencies from registering in Oregon.
329	Rep. Witt	Why is the registering issue a problem for Oregon University System if it is not a problem with private colleges in the State of Oregon?
332	Zavala	Discusses the concerns of the Oregon University System with HB 2316.
358	Rep. Edwards	Were there any discussions between the Oregon University System and the Department of Consumer & Business Services?
371	Zavala	The concern is whether DCBS has the authority to waive the Oregon University System's contractual obligations to collection agencies.
382	Chair Shetterly	States that HB 2316 does not affect the university's contracts with collection agencies.
389	Chris Mahoney	Oregon University System (OUS) Expresses the concern of OUS and whether the DCBS can grant a waiver for contracting with collection agencies. States that collection agencies may not be willing to register in Oregon which would limit the selection. Does HB 2316 require out-of-state collection agencies to keep all customer funds and records in the State of Oregon?
427	Chair Shetterly	States that requirement would be subject to the same exemption that would give DCBS authority to exempt Higher Education from having out-of-state collection agencies.
437	Rep. Witt	States that it is clear in section 9 of HB 2316 what authority the DCBS Director has concerning exemptions.
444	Chair Shetterly	States that the concern with HB 2316 seems to be with the effect on loan procedure and not with the proposed language.
458	Rep. Williams	MOTION: Moves to ADOPT HB 2316-3 amendments dated 03/25/99.
	Rep. Uherbelau	VOTE: 9-0

		AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly
	Chair Shetterly	The motion CARRIES.
464	Rep. Williams	MOTION: Moves HB 2316-3 to the floor with a DO PASS AS AMENDED recommendation.
468	Rep. Edwards	States that Higher Education does have a problem with HB 2316 if DCBS cannot receive a waiver for the contracting requirements.
480	Rep. Uherbelau	Expresses her support for HB 2316.
487	Rep. Backlund	Expresses his support for HB 2316 because it provides fairness and equity and is a good concept.
Tape 98, A		
040	Rep. Lowe	Expresses her support of HB 2316 as long as the amendments address the concerns of the Oregon University Systems.
045	Chair Shetterly	VOTE: 9-0 AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly
		The motion CARRIES. REP. EDWARDS will lead discussion on the floor.
055	Chair Shetterly	Adjourns at 3:05 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,
Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 3572, Written testimony, Rep. Shetterly, p. 28

B - HB 3572, Proposed conceptual amendments, Oregon Judicial Department, p. 1

C - HB 3572, Written testimony, Kingsley Click, p. 2

D - SB 374A, Written testimony, Pete Shepherd, p. 1

E - HB 2180, Written testimony, Langdon Marsh, p. 7

F - HB 2180, Written testimony, Kathryn VanNatta, p. 2

G - HB 2180, Written testimony, John Ledger, p. 1

H - HB 2659, Proposed -1 amendments, Counsel, p. 3

I - HB 2316, Proposed -3 amendments, Counsel, p. 3

J - HB 2316, Written testimony, Kellie Shoemaker, p. 1