

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

May 10, 1999 Hearing Room 357

1:00 p.m. Tapes 153 - 154

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: SB 50A - Public Hearing

SB 176A - 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 |
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| TAPE 155, A | | |
| 002 | Chair Shetterly | Calls meeting to order at 1:37 p.m. |
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SB 50A - PUBLIC HEARING

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| 013 | Counsel Felton | SB 50A modifies law requiring court to award attorney fees to prevailing plaintiff in certain actions in which only limited damages are sought. |
| 027 | Greg Mowe | Oregon Sate Baris Procedure and Practice Committee Testifies and submits written testimony in support of SB 50A (EXHIBIT A). Discusses what SB 50A provides concerning award of attorney fees when pleaded amount is \$4,000 or less. Explains the difference of SB 50 and SB 50A in regards to the pleading limit. Discusses how SB 50 is more appropriate for the pleading limit. Proposes an amendment to SB 50A which increases the pleading limit to \$7,500 (EXHIBIT B). |
| 127 | Tom Mortland | North Pacific Insurance Testifies in opposition to SB 50A. Discusses why the increase in pleading limit from \$4,000 to \$7,500 would effect the incentive for litigation and increase the cost of the claim. States that North Pacific Insurance would support an increase of the pleading limit to \$5,000. |
| 181 | Rep. Williams | Donít attorneys lower the claim amount so it can be settled out of court? |
| 189 | Mortland | Yes. States that increasing the pleading limit to \$7,500 increases the amount of claims that fit within the average claim amounts. |
| 202 | Rep. Williams | Would pleadings that stayed under the \$4,000 lose some of the compensation damage award? |
| 220 | Mortland | Explains the compromising of damages in personal injury cases. States that SB 50A does not apply just to insurance claims. There is no reason to change the existing laws concerning pleading limits. |
| 253 | Rep. Williams | Should an indexing mechanism be put in SB 50A so this subject doesnít come back for increases every session? |
| 262 | Mortland | I would be reluctant to answer that without more information. |
| 275 | Rep. Uherbelau | Asks about all the settled cases that reach the appellate level that do not relate to insurance claims. |
| 283 | Mortland | Explains the different claims that are settled at the appellate level. |
| 296 | Rep. Uherbelau | Why do you think it would cost insurance companies more with the passage of SB 50A? |
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| 312 | Mortland | Explains the incentive for insurance companies to settle personal injury claims and how SB 50A would affect the total settled amount. |
| 347 | Rep. Uherbelau | Asks for further explanation why the passage of SB 50A would cost the insurance companies more money. |
| 383 | Mortland | Explains how most personal injury claims are outside the pleading limit. Explains why SB 50A would open the door for more personal injury claims. |
| 420 | John Powell | State Farm Insurance Testifies and submits written testimony on behalf of William Cloran in opposition to SB 50A (EXHIBIT C). Discusses the testimony of William Cloran who has concerns with SB 50A promoting litigation and recommends repealing ORS 20.080 concerning attorney fees. |
| 455 | Lana Butterfield | Safeco Insurance Company Testifies in opposition to SB 50A. Explains why Safeco Insurance Company would object to any increase in the pleading limits. |
| Tape 154, A | | |
| 023 | John Clements | Safeco Insurance Company (SAFECO) Testifies and submits written testimony in opposition to SB 50A (EXHIBIT D). Explains that SAFECO objects to any change to the A-engrossed version of SB 50. Discusses the adverse impacts to the insurance industry if there are any increases in pleading limits. Explains how SB 50A could promote inflated fraudulent claims. States that SAFECO would accept a pleading limit of \$5,000. |
| 100 | Rep. Uherbelau | Are you saying that your insured customers are trying to promote insurance fraud? |
| 105 | Clements | No. Most claims are settle amicably. Explains why insured customers are the Insurance companies' primary concerns. Discusses why there are only a small percent of fraudulent claims in the insurance industry. |
| 127 | Rep. Uherbelau | Do your insured customers get attorney fees if they go to trial? How do insurance companies evaluate insurance claims? |
| 140 | Clements | Explains how the insurance company evaluates insurance claims. SB 50A creates an incentive for difference in opinion between the plaintiff and the defendant. |
| 163 | Rep. Uherbelau | What does the personal injury protection part of insurance pay in the insurance claim? |
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| 169 | Clements | Explains personal injury protection. |
| 178 | Rep. Witt | Is the plaintiff the person suing the policyholder? |
| 181 | Clements | Yes. Though it could be a policyholder in an uninsured situation. |
| 183 | Rep. Witt | Is having a counter claim the only way a defendant can get attorney fees paid? |
| 191 | Clements | That is correct. |
| 195 | Tom Kranovich | Attorney, Safeco Insurance Company (SAFECO) Testifies in opposition to SB 50A. Explains the imbalance in attorney fees when a counterclaim is involved. States that SAFECO represents their insured customers and is fair in all case proceedings. Discusses the problem with determining the award amount for pain and suffering in personal injury cases. Discusses why the increase in pleading limits raises the cost of expenses. Discusses those cases where Oregon allows reimbursement of attorney fees. States that juries make higher awards in personal injury cases. States that SAFECO's compromise is that plaintiffs should get attorney fees awarded if there is a counterclaim or that the pleading limits should be at \$5,000. |
| 384 | Rep. Witt | Does the expense of attorney fees and expense of settlements get passed onto the insured customer? |
| 390 | Kranovich | Yes. |
| 393 | Rep. Williams | Do you practice law in Washington? |
| 399 | Kranovich | No. |
| 401 | Rep. Williams | Do you know of any other states that have a similar statute to SB 50A? |
| 405 | Kranovich | Most states have a similar statute. |
| 414 | Rep. Lowe | What effect would SB 50A have on arbitration? |
| 429 | Kranovich | Arbitration awards tend to be higher than jury awards. |
| 440 | Rep. Lowe | Why would SB 50A cause more appeals in arbitration? |
| 455 | Kranovich | Explains why arbitration awards tend to be higher than jury awards which causes appeals. |

Tape 153, B

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| 029 | Rep. Uherbelau | Asks for explanation of personal injury settlements. |
| 035 | Kranovich | Explains personal injury settlements between insurance companies and attorneys. |
| 048 | Rep. Uherbelau | Do the insurance companies avoid litigation by settling at a lower claim amount? |
| 052 | Kranovich | Sometimes. |
| 060 | Rep. Wells | Is there an amendment for compromising the pleading limit? |
| 066 | Chair Shetterly | Explains the proposed amendment by Practice and Procedures Committee that would raise the pleading limit to \$7,500. |
| 092 | Chair Shetterly | Closes public hearing. |

SB 176A n PUBLIC HEARING

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| 096 | Counsel Felton | SB 176A revises procedure for removal and sale of abandoned boat, floating home or boathouse. |
| 113 | Paul Donheffner | State Marine Board Testifies and submits written testimony in support of SB 176A (EXHIBIT D). Discusses the purpose of SB 176A regarding abandoned boats. Explains that SB 176A simplifies the process of taking care of abandoned boats. |
| 159 | Rep. Williams | What is the definition of "abandoned"? |
| 163 | Donheffner | Defines the word "abandoned". |
| 176 | Rep. Lowe | Would late moorage fees allow the State Marine Board to confiscate a half-sunken boat? |
| 189 | Donheffner | Explains what the marina owner could do regarding abandoned boats that have not paid their marina fees. |
| 203 | John Raichl | Oregon State Sheriffs Association Testifies in support of SB 176A. Explains the current cumbersome process for taking care of abandoned boats and that SB 176A would simplify that process. |

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| 221 | Jennifer Robinson | Assistant Director, Division of State Lands Testifies and submits written testimony in behalf of Paul Cleary in support of SB 176A (EXHIBIT E). Explains how SB 176A would give the authority to Division of State Lands to take care of abandoned boats. |
| <u>SB 176A - WORK SESSION</u> | | |
| 235 | Rep. Uherbelau | MOTION: Moves SB 176A to the floor with a DO PASS recommendation. |
| | | VOTE: 8-0 AYE: 8 - Backlund, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly EXCUSED: 1 - Edwards |
| | | Chair Shetterly The motion CARRIES. REP. WALKER will lead discussion on the floor. |
| 252 | Chair Shetterly | Adjourns at 2:49 p.m. |

Submitted By, Reviewed By,

Nancy Richards, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 50A Written testimony, Greg Mowe, p. 2

B - SB 50A, Proposed amendments, Greg Mowe, p. 1

C - SB 50A, Written testimony, William Cloran, p. 3

D - SB 50A, Written testimony, John Clements, p. 1

E - SB 176A, Written testimony, Paul Donheffner, p. 2

F - SB 176A, Written testimony, Paul Cleary, p. 1