

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

May 17, 1999 Hearing Room 357

1:00 p.m. Tapes 164 - 165

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 - Work Session

SB 756A - Work Session

HB 3605 - Work Session

SB 318 ñ Work Session

SB 319 ñ 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 164, A

003	Vice Chair Williams	Calls meeting to order at 1:35 p.m.
<u>SB 318A - WORK SESSION</u>		
016	Vice-Chair Williams	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote for SB 318.
		VOTE: 8-0 EXCUSED: 1 - Shetterly
	Vice-Chair Williams	Hearing no objection, declares the motion CARRIED.
019	Rep. Edwards	MOTION: Moves to RECONSIDER the vote by which SB 318A was passed with a DO PASS recommendation as amended.
		VOTE: 8-0 EXCUSED: 1 - Shetterly
	Vice-Chair Williams	Hearing no objection, declares the motion CARRIED.
027	Counsel Felton	SB 318A requires that certain protective orders be entered into databases of Nation Crime Information Center of United States Department of Justice in addition to Law Enforcement Data System. Presents the -A5 amendments (EXHIBIT A) .
054	Rep. Edwards	MOTION: Moves to UNADOPT the conceptual amendment and to reinstate line 14, page 1 of SB 318A with the colon (;).
		VOTE: 8-0 EXCUSED: 1 - Shetterly

	Vice-Chair Williams	Hearing no objection, declares the motion CARRIED.
067	Rep. Edwards	MOTION: Moves to ADOPT SB 318A-A5 amendments dated 05/12/99.
		VOTE: 8-0 EXCUSED: 1 - Shetterly
	Vice-Chair Williams	Hearing no objection, declares the motion CARRIED.
072	Rep. Edwards	MOTION: Moves SB 318A to WAYS & MEANS COMMITTEE with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0 AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt EXCUSED: 1 - Shetterly
	Vice-Chair Williams	The motion CARRIES.
<u>SB 319 - WORK SESSION</u>		
100	Counsel Felton	SB 319 modifies provisions dealing with peace officer's responsibilities when responding to incident of domestic violence, Presents the -1 amendments (EXHIBIT B).
117	Vice Chair Williams	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering SB 319.
		VOTE: 8-0 EXCUSED: 1 - Shetterly
	Vice-Chair Williams	Hearing no objection, declares the motion CARRIED.

121	Rep. Edwards	<p>MOTION: Moves to RECONSIDER the vote by which SB 319 was passed to the floor with a DO PASS recommendation.</p>
		<p>VOTE: 8-0</p> <p>EXCUSED: 1 - Shetterly</p>
		<p>Hearing no objection, declares the motion CARRIED.</p>
157	Rep. Edwards	<p>MOTION: Moves to UNADOPT the conceptual amendment to SB 319 and to reinstate lines 4-24, page 1 and lines 1-11 on page 2 of the -1 amendments.</p>
		<p>VOTE: 8-0</p> <p>EXCUSED: 1 - Shetterly</p>
		<p>Hearing no objection, declares the motion CARRIED.</p>
169	Rep. Edwards	<p>MOTION: Moves to ADOPT SB 319-1 amendments dated 04/13/99.</p>
		<p>VOTE: 8-0</p> <p>EXCUSED: 1 - Shetterly</p>
		<p>Hearing no objection, declares the motion CARRIED.</p>
177	Rep. Edwards	<p>MOTION: Moves SB 319 to the floor with a DO PASS AS AMENDED recommendation.</p>
		<p>VOTE: 8-0</p> <p>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</p> <p>EXCUSED: 1 - Shetterly</p>

	Vice-Chair Williams	The motion CARRIES. REP. UHERBELAU will lead discussion on the floor.
203	Vice-Chair Williams	Recess at 1:49 p.m.
204	Chair Shetterly	Reconvenes at 2:15 p.m.
<u>SB 50Añ WORK SESSION</u>		
211	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.
219	Chair Shetterly	Explains the -A5 amendments to SB 50A which relates to attorney fees and contested case proceedings (EXHIBIT C).
253	Rep. Witt	MOTION: Moves to ADOPT SB 50A-A5 amendments dated 05/06/99.
		VOTE: 9-0
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
262	Rep. Uherbelau	Should we have a fiscal impact on the -A5 amendments?
269	Rep. Williams	Explains why the Attorney General is not concerned with the fiscal impact on the -A5 amendments.
290	Rep. Witt	Explains why the -A5 amendments will cause state agencies to be more cautious about reasonable court rulings.
295	Chair Shetterly	The Department of Justice (DOJ) and Department of Consumer and Business Services (DCBS) are not concerned with any fiscal impact on SB 50A.
313	Rep. Uherbelau	Discusses past Workersí Compensation Board decisions concerning the DOJ issuing court orders based on bad law.
321	Rep. Williams	States that the state courts operate from ORS 21.05 concerning administrative law.

344	Rep. Uherbelau	Expresses concern about the state agencies that would be effected by SB 50A having opposition in two years because of a fiscal impact.
365	Chair Shetterly	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. LOWE and REP. UHERBELAU to CHANGE vote from AYE to NAY on the -A5 amendments to SB 50A.
		Hearing no objection, the motion carries.
405	Rep. Williams	Explains why the \$5,500 is not an unreasonable increase in the pleaded amount of damages.
428	Rep. Witt	Expresses support of SB 50A with the increase to \$5,000 for the pleaded amount of damages.
445	Rep. Williams	Explains why the Senate had no agreement on damage limit increase.
470	Chair Shetterly	MOTION: Moves to SUSPEND the rules for the purpose of amending the motion to increase the amount on lines 6 & 16 to \$5,000.
		VOTE: 8-1 AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly NAY: 1 - Witt
	Chair Shetterly	The motion CARRIES.
Tape 165, A		
030	Rep. Williams	MOTION: Moves SB 50A to the floor with a DO PASS AS AMENDED recommendation.
042	Rep. Uherbelau	Discusses the damage limits set by neighboring states. Expresses opposition to SB 50A.
051	Rep. Williams	Discusses why the 3% inflation factor would put the damage amount to \$5,680 and a \$5,000 limit would be reasonable.
068	Rep. Uherbelau	States that inflation increase should include the inflation of health care.

076	Rep. Witt	States that this bill is not about insurance dictating the limit, it is about setting good policy relative to plaintiffs and defendants in limited damage awards. Discusses why raising the limit higher than \$5,000 could increase claim amounts and put pressure on the defendants to settle.
090	Rep. Lowe	Declares a conflict.
		<p>VOTE: 4-5</p> <p>AYE: 4 - Backlund, Wells, Williams, Witt</p> <p>NAY: 5 - Edwards, Lowe, Uherbelau, Walker, Shetterly</p>
	Chair Shetterly	The motion FAILS.
104	Chair Shetterly	Closes work session.
<u>SB 756A n WORK SESSION</u>		
111	Counsel Felton	SB 756A establishes Oregon Qualified Tuition Savings Program and Oregon Qualified Tuition Savings Board. Presents the -A10 and the -A13 amendments (EXHIBITS D & E).
120	Rep. Edwards	Discusses the purpose of the -A10 and the -A13 amendments.
141	Mari Anne Gest	<p>State Treasurer's Office</p> <p>Discusses the concerns with SB 756A relating to the deferred state tax on interest earnings (EXHIBITS F & G).</p>
184	Rep. Edwards	Explains why the decision was to defer the tax on the interest earnings.
196	Rep. Uherbelau	Do the grandparents count as contributors to the college savings program, so they can receive the \$2,000 tax deduction?
206	Rep. Edwards	Yes.
208	Rep. Uherbelau	Would a neighbor count as a contributor?
210	Rep. Edwards	Yes. Married couples would only qualify if filing separately with their state income tax.

214	Rep. Wells	Would taxes be paid on the money contributed and on the interest earnings?
219	Rep. Edwards	Taxes are paid on the contributed money, but not on the interest earnings.
235	Rep. Edwards	MOTION: Moves to ADOPT SB 756A-A10 amendments dated 05/11/99.
		VOTE: 9-0
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
240	Rep. Edwards	MOTION: Moves to ADOPT SB 756A-A13 amendments dated 05/17/99.
250	Rep. Uherbelau	Expresses concern that SB 756A would give a \$2,000 tax deduction for every contributor to the savings program.
258	Rep. Edwards	Explains the taxing process for the interest accrued on money contributed into the college saving program.
275	Rep. Lowe	Where in SB 756A does it describes the beneficiary of the savings program?
292	Rep. Edwards	Explains federal tax lawis implication on SB 756A concerning the beneficiary.
		VOTE: 9-0
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
323	Rep. Edwards	MOTION: Moves to rescind subsequent to Revenue Committee on SB 756A.
328	Rep. Witt	Would the Civil Law Committee need to have a no revenue impact on SB 756A?
331	Chair Shetterly	No. Explains the revenue impact process for SB 756A.
340	Rep. Witt	Expresses opposition to the rescind the referral to Revenue on SB 756A.
353	Rep. Uherbelau	Expresses opposition to the rescind the referral to Revenue on SB 756A.

373	Rep. Shetterly	Discusses Mr. Strobeck's testimony last week where he agreed to the refer SB 756A to the Ways & Means Committee.
380	Rep. Lowe	Would there be harm in sending SB 756A to the Ways & Means Committee?
385	Chair Shetterly	Explains the process of sending SB 756A through the revenue process.
396	Rep. Witt	Explains why SB 756A should go to the Ways & Means Committee.
428	Rep. Backlund	Expresses his support of not sending SB 756A to the Ways & Means Committee.
439	Rep. Walker	Expresses support for sending SB 756A to the floor.
		<p>VOTE: 7-2</p> <p>AYE: 7 - Backlund, Edwards, Lowe, Uherbelau, Walker, Williams, Shetterly</p> <p>NAY: 2 - Wells, Witt</p>
	Chair Shetterly	The motion CARRIES.
468	Rep. Edwards	MOTION: Moves SB 756A 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. EDWARDS will lead discussion on the floor.</p>
490	Chair Shetterly	Closes work session.
Tape 164, B		
<u>HB 3605 - WORK SESSION</u>		

035	Counsel Felton	HB 3605 provides that limitations on recovery of noneconomic damages apply in claims under Employer Liability Act.
039	Rep. Williams	Explains the -4 amendments which would remove the retroactivity portions of HB 3605 (EXHIBIT H).
048	Chair Shetterly	Explains the damage cap on noneconomic damages in debt actions under the federal employee law.
071	Bob Shiprack	Oregon Building Trades Council States that the Oregon Building Trades Council is in opposition to HB 3605. Explains why HB 3605 will only affect widows.
094	Rep. Walker	How many lawsuits would HB 3605 affect in a year?
096	Shiprack	About 20 a year.
100	Rep. Wells	Does HB 3605 address lawsuits that involve injury or death?
106	Shiprack	Noneconomic damages would apply to lawsuits that involve death.
109	Chair Shetterly	Explains how the damage cap in HB 3605 applies only to death claims.
124	Jeff Carlson	Ironworkers Local 29 Explains why the Ironworkers are opposed to HB 3605. States that lives are more important than money.
152	Chair Shetterly	Explains that why there are no caps on injury or death economic claims.
167	Carlson	Explains why the damage cap in HB 3605 makes it more difficult for the surviving family.
175	Rep. Uherbelau	Explains how HB 3605 says that a working person does not have any value to the surviving family except for economic values.
190	Rep. Williams	MOTION: Moves to ADOPT HB 3605-4 amendments dated 05/05/99.
		VOTE: 9-0

	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
197	Rep. Williams	MOTION: Moves HB 3605 to the floor with a DO PASS AS AMENDED recommendation.
200	Rep. Williams	Explains how HB 3605 puts the Employer Liability Act in line with current law.
214	Rep. Lowe	Explains how current employee laws all evolved from the Employer Liability Act and how they work in harmony.
235	Rep. Uherbelau	States that HB 3605 is an excellent bill for employers, but not for workers. Explains how the current law is defined regarding any loss of life. Explains why the worker will be the loser because of the damage cap on the noneconomic damages.
265	Rep. Walker	Discusses why the Employee Liability Act doesn't need to be changed.
288	Rep. Lowe	Discusses the unsafe work conditions in a many workplaces.
291	Chair Shetterly	Explains why HB 3605 should be moved forward concerning a request from the Governor's Office.
338	Rep. Edwards	Expresses concern about the effect of state contracting with subcontractors effecting safety standards.
351	Chair Shetterly	Discusses state contracts that work with subcontractors that have poor safety records.
		VOTE: 5-4 AYE: 5 - Backlund, Wells, Williams, Witt, Shetterly NAY: 4 - Edwards, Lowe, Uherbelau, Walker
	Chair Shetterly	The motion CARRIES. REP. WITT will lead discussion on the floor.
401	Chair Shetterly	Closes work session.
		Adjourns meeting at 3:21 p.m.

Submitted By, Reviewed By,

Nancy Richards, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 318A, Proposed -A5 amendments, Counsel, p. 4

B - SB 319, Proposed -1 amendments, Counsel, p. 2

C - SB 50A, Proposed -A5 amendments, Rep. Shetterly, p. 2

D - SB 756A - Proposed -A10 amendments, Counsel, p. 1

E - SB 756A - Proposed -A13 amendments, Counsel, p. 4

F - SB 756A, Written testimony, Mari Anne Gest, p. 2

G - SB 756A, Written testimony, Mari Anne Gest, p. 1

H - HB 3605, Proposed -4 amendments, Rep. Williams, p. 1