

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

May 19, 1999 Hearing Room 357

1:00 p.m. Tapes 167 -168

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

MEMBER EXCUSED: Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: SB 379A - Public Hearing & Work Session

SB 268A - 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 167, A		

003	Vice-Chair Williams	Calls meeting to order at 1:09 p.m.
<u>SB 379A - PUBLIC HEARING</u>		
012	Counsel Felton	SB 379 authorizes Attorney General to negotiate or enter into civil compromise when considering criminal prosecution under antitrust laws.
019	Pete Shepherd	Department of Justice (DOJ) Testifies and submits written testimony in support of SB 379A (EXHIBIT A). Discusses the problem with SB 379A concerning antitrust investigation or prosecution.
054	Vice Chair Williams	Asks for explanation of the amendment voted in by the Senate.
058	Shepherd	Explains how before amending SB 379A it could have been construed wrongfully concerning undermining the existing ethical rule in disciplinary rule 7104 which prohibits a lawyer from bring criminal charges in order to gain advantage in a civil case.
071	Vice Chair Williams	Had the Oregon State Bar expressed concern about SB 379A in the Senate?
072	Shepherd	They had a question about the intent of SB 379A.
075	Vice Chair Williams	How many antitrust prosecutions does the DOJ handle in a year?
079	Andy Aubertine	Department of Justice (DOJ) Testifies in support of SB 379A. Discusses how many antitrust suits are handled by the DOJ each year and why some are multi-state cases.
094	Chair Shetterly	Closes public hearing.
<u>SB 379A n WORK SESSION</u>		
093	Rep. Williams	MOTION: Moves SB 379A to the floor with a DO PASS recommendation.
		VOTE: 8-0 AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly EXCUSED: 1 - Witt

	Chair Shetterly	The motion CARRIES. REP. EDWARDS will lead discussion on the floor.
110	Chair Shetterly	Closes work session.
<u>SB 268A n WORK SESSION</u>		
117	Counsel Felton	SB 268A creates affirmative defense in action under Oregon Tort Claims Act based on year 2000 failure of automated systems. Presents the -A2 and the -A3 amendments (EXHIBITS B & C).
131	Chair Shetterly	Explains why SB 268A was amended concerning the language "computer date failures".
153	Susan Lee	County Commissionerís Office, Multnomah County Testifies and submits written testimony in support of SB 268A (EXHIBIT D). States that Multnomah County believes that SB 268A is a good public policy regarding placing limits on liability for public entities for potential Year 2000 (Y2K) computer failures.
165	Rep. Edwards	Does Multnomah County support the sunset clause of the -A3 amendments?
169	Lee	We have not seen the -A3 amendments.
177	Rep. Uherbelau	Expresses concern that SB 268A does not designate how long before year 2000 someone would have to "show good faith efforts" toward solving the Y2K issues.
200	Chair Shetterly	Explains that an element of good faith would include solving the Y2K problems long before December of 1999.
205	Rep. Uherbelau	Could there be a problem with the time line of "showing good faith efforts" if SB 268A doesnít designate an actual time line?
218	Rep. Edwards	The intent is implied on line 9, page 1 of SB 268A.
226	Rep. Uherbelau	The only requirement of SB 268A is to make the effort "before" the year 2000.

233	Rep. Williams	States that SB 268A is not creating an immunity, only a defense. If someone is sued then they should be able to show that they made good intent toward solving the Y2K problem.
249	Chair Shetterly	A fail-safe provision in SB 268A is on line 20, page 1, which is to create a plan then implement it.
262	Rep. Uherbelau	States that the committee's intent should show they support "good faith efforts" that start more than a week before year 2000.
282	Rep. Lowe	Explains why there should be no lawsuits against public bodies who in good faith try to solve all the computer problems of Y2K even though they may run into unforeseen problems. What public computer systems would be more likely to have Y2K problems?
335	Hasina Squires	Special Districts Association of Oregon Explains the standards of good faith in public agencies to solve the Y2K problems. States that wastewater treatment plants run on computers and are very technical.
374	Rep. Lowe	How would the Y2K problems affect the 911 emergency system?
378	Squires	Explains why electrical power is important with the 911 emergency system working properly.
404	Rep. Lowe	Is there anything in the good faith provision of SB 268A that would require a back-up plan for emergency systems?
415	Squires	I do not know.
422	Rep. Lowe	Does SB 268A put a burden on the public entities or does SB 268A just address the computer systems?
429	Judy James	Risk Manager Division, State of Oregon In SB 268A there is a provision on line 17, page 1 that require public services such as the 911 system to have back-up systems.
460	Rep. Williams	MOTION: Moves to ADOPT SB 268A-A3 amendments dated 05/17/99.
		VOTE: 8-0 EXCUSED: 1 - Witt

	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
468	Rep. Williams	MOTION: Moves SB 268A to the floor with a DO PASS AS AMENDED recommendation.
472	Rep. Walker	Did the committee pass HB 3245 which was similar to SB 258A?
475	Chair Shetterly	Yes. HB 3245 deals with the private sector and SB 268A deals with the public sector.
Tape 168, A		
036		VOTE: 8-0 AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly EXCUSED: 1 - Witt
	Chair Shetterly	The motion CARRIES. SHETTERLY will lead discussion on the floor.
041	Chair Shetterly	Closes work session.
		Adjourns meeting at 2:05 p.m.

Submitted By, Reviewed By,

Nancy Richards, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 379, Written testimony, Peter Shepherd, p. 1

B - SB 268A, Proposed -A2 amendments, Counsel, p. 2

C - SB 268A, Proposed -A3 amendments, Counsel, p. 1

D - SB 268A, Written testimony, Susan Lee, p. 2