

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**May 21, 1999 Hearing Room 357**

**1:00 p.m. Tapes 169 - 171**

**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 1019A - Public Hearing & Work Session**

**SB 817A - Public Hearing & Work Session**

**SB 795A - Public Hearing**

**SB 50A - 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.**

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TAPE/#	Speaker	Comments
<b>TAPE 169, A</b>		
004	Chair Shetterly	Calls meeting to order at 1:29 p.m.
<b><u>SB 795A - PUBLIC HEARING</u></b>		
012	Counsel Felton	SB 795A creates schedule of progressive civil penalties and remedial measures for county having dog control program to use when dog kills, wounds, injures or chases livestock.
020	<b>Sen. Mae Yih</b>	<b>State Senator, District 19</b>  Testifies and submits written testimony in support of SB 795A ( <b>EXHIBITS A &amp; B</b> ). Discusses why section 14a (w) was incorporated into SB 795A.
048	Chair Shetterly	Is the proposed amendment that was submitted as testimony part of SB 795A?
052	Sen. Yih	Yes.
055	Chair Shetterly	Was there any opposition from land-use organizations concerning the adoption of section 14?
057	Sen. Yih	No.
070	<b>Dave Barrows</b>	<b>Oregon Veterinary Medical Association</b>  Testifies in support of SB 795A. Discusses the history of SB 795A. Discusses what groups are in support of SB 795A. Explains the purpose of SB 795A.
129	Rep. Wells	Was it the intent of SB 795A to create uniformity guidelines for animal control around the State of Oregon?
142	Barrows	Discusses the mandatory provisions in SB 795A for any county that has an animal control program. Discusses how SB 795A puts the responsibility on the dog owner.
194	Rep. Lowe	What about dogs that have killed twice?
198	Barrows	They are not living today.
219	Rep. Walker	The only mandate that SB 795A gives counties is to give dog owners a hearing if

		requested.
221	Barrows	That is the intent of SB 795A.
231	<b>Allen Tresidder</b>	<b>Oregon Humane Society</b> Testifies in support of SB 795A.
242	Chair Shetterly	Is the Oregon Humane Society in support of the -A5 amendments?
245	Tresidder	I have not seen the -A5 amendments.
250	<b>Richard Koseasan</b>	<b>Oregon Sheep Growers Association</b> Testifies in support of SB 795A. Explains why the Oregon Sheep Growers Association is in support of SB 795A without any amendments.
285	Rep. Walker	How many counties do not have animal control programs?
290	Barrows	I do not have that information. I presume that counties with a large population have an animal control program. SB 795A applies only to those counties that already have an animal control program.
312	Rep. Edwards	How does SB 795A define "livestock"?
315	Barrows	The definition of "livestock" is found in lines 8-11, page 5 of SB 795A.
344	<b>Rob Bovett</b>	<b>Attorney, Lincoln County</b> Testifies and submits written testimony neutrally to SB 795A ( <b>EXHIBIT C</b> ). Legislative Counsel issued an opinion indicating local ordinances have animal control programs. Explains the -A5 amendments which would "grandfather in" county dog control programs that are similar to the program that SB 795A proposes ( <b>EXHIBIT D</b> ).
394	Chair Shetterly	Does the matrix in section 5, page 1 of SB 795A coincide with Lincoln County's animal control program?
397	Bovett	Explains the matrix that Lincoln County uses for their punishment process.
431	Rep. Uherbelau	Were the successful animal control programs that were similar to SB 795A presented as a guideline?
438	Bovett	I do not know.

440	Chair Shetterly	The counties with successful animal control programs were represented in the work group that helped create SB 795A.
<b>Tape 170, A</b>		
010	<b>Robert Babcock</b>	<b>Citizens for Humane Animal Legislation</b> Testifies and submits written testimony in opposition to SB 795A ( <b>EXHIBITS E</b> ). Explains why the Citizens for Humane Animal Legislation oppose the amendments regarding the fair hearing process and the penalty matrix ( <b>EXHIBIT F</b> ). Explains why HB 2425 is a better bill because it establishes a more flexible approach for animal control. Explains how current animal control laws provide civil penalties to the irresponsible dog owners. Discusses how SB 795A makes the matrix mandatory in all animal control programs.
117	Chair Shetterly	Asks for the explanation of the Proposed Initiative #35, which would end the unnecessary killing of dogs by animal control agencies in Oregon.
123	Babcock	Explains the purpose of Initiative #35 concerning who controls the animal control program. Explains why there are not any fair hearings for animal control.
159	<b>Gail O'Connell-Babcock</b>	<b>Citizens for Humane Animal Legislation</b> Testifies and submits written testimony in opposition to SB 795A ( <b>EXHIBIT G</b> ). Discusses why SB 795A does not correct current problems and injustices with Oregon's laws that regulate animal control. States that the Citizens for Humane Animal Legislation were not represented in the work group that created SB 795.
194	Babcock	Discusses the work group's representation and why concerns of the Citizens for Humane Animal Legislation were rejected by the work group.
213	O'Connell-Babcock	Explains why there are not fair hearings in Oregon concerning animal control.
232	Chair Shetterly	Doesn't lines 7 & 8, page 2 of SB 795A provide fair hearings?
236	Babcock	Any county can opt out of holding a hearing because lines 7 & 8, page 2 of SB 795A does not make hearings mandatory. Counties can opt out of the hearing process by passing a local law
299	O'Connell-Babcock	Discusses the lack of penalties if a dog kills on a first chase. Explains why dog owners abandon their dogs because of high penalties. SB 795A will force counties to create a maze of laws. Discusses the complication of defining Measure 47 regarding animal control laws.
<b>Tape 169, B</b>		

019	<b>Chuck Taylor</b>	<b>Legislative Counsel</b> I am here to answer questions regarding the content of SB 795A and the amendments.
024	Rep. Uherbelau	Who proposed the -A6 amendments ( <b>EXHIBIT F</b> )?
027	Taylor	The Oregon Veterinary Medical Association proposed the -A6 amendments.
030	Rep. Uherbelau	Is there contradiction in the -A6 amendments concerning mandatory hearings?
037	Taylor	Explains the language in SB 795A that requires regarding mandatory hearings.
066	Rep. Uherbelau	Discusses the confusion of section 2 and section 3 regarding mandatory hearings.
077	Taylor	Agrees with the confusion in cross-referencing between the sections in SB 795A and explains why it is confusing.
100	Rep. Uherbelau	Wouldn't it be more appropriate to have section 20 refer back to section 2 instead of section 3?
115	Taylor	Explains how the sections in SB 795A provide a way for counties to opt-out of the hearing process.
130	Rep. Uherbelau	Can the counties do what they want regarding hearings if the counties do not have animal control programs?
138	Taylor	Yes. SB 795A does not extend to those counties that do not have animal control programs.
158	<b>Sharon Harmon</b>	<b>Oregon Humane Society</b> Testifies in support of SB 795A. Explains how SB 795A effects counties that do not have animal control programs concerning animal control.
175	Rep. Uherbelau	Why would the current animal control laws be left as they are for counties without animal control programs?
181	Harmon	The problems we are having are with the counties that have animal control programs.
184	Rep. Uherbelau	States that both counties with and without animal control programs are putting animals to death.

188	Harmon	Explains why it isn't feasible to have uniform animal control programs for all counties.
191	Chair Shetterly	Discusses the revenue impact of SB 795A on county animal control programs.
200	Barrows	Discusses the problems if there was a mandatory hearing requirement in small counties.
219	Rep. Uherbelau	Proposes that the dog would be put to sleep if the dog owner could not pay to keep the dog impounded.
234	Rep. Wells	Comments on the A5 amendments and how it could involve land use laws.
262	Barrows	Discusses Safe Haven's purpose of being a no-kill facility for animals and their need for more land.
284	Chair Shetterly	Would SB 795A only apply to Safe Haven's problem of land use?
286	Barrows	No, there are other similar facilities with the same problem.
290	Harmon	Explains the need for Safe Haven to have more room for expansion.
298	Rep. Wells	Expresses concerns with the A5 amendments not being friendly toward land use in farming areas.
332	Rep. Walker	Is it true that there are only a handful of counties that do not have animal control laws?
341	Barrows	Discusses why there is not uniformity in animal control laws in all the counties.
380	Chair Shetterly	Closes public hearing.
<b><u>SB 817A - PUBLIC HEARING</u></b>		
405	<b>Nancy Miller</b>	<b>State Court Administrator's Office</b>  Testifies in support of SB 817A which requires court to consider concurrent case plan, including adoptive placement, when reviewing child's conditions and circumstances in substitute care hearing. Discusses what SB 817A allows with the court's involvement in adoptive placement.
424	<b>Kathy Ledesma</b>	<b>Permanency and Adoptions Services, Services to Children and Families (SCF)</b>

		Testifies and submits written testimony in support of SB 817A ( <b>EXHIBIT H</b> ). Explains why SCF supports SB 817 A-Engrossed.
<b>Tape 170, B</b>		
016	<b>Kathie Osborn</b>	<b>Juvenile Right Project (JRP)</b> Testifies in support of SB 817A.
021	Chair Shetterly	Closes public hearing.
<b><u>SB 817A n WORK SESSION</u></b>		
<b>020</b>	<b>Rep. Lowe</b>	<b>MOTION: Moves SB 817A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly</b> <b>EXCUSED: 1 - Witt</b>
	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>  <b>REP. LOWE will lead discussion on the floor.</b>
031	Chair Shetterly	Closes work session.
<b><u>SB 1019A n PUBLIC HEARING</u></b>		
037	Counsel Felton	SB 1019A classifies insurance compliance self-evaluative audit document as privileged information and not discoverable, or admissible as evidence, in civil, criminal or administrative proceeding.
040	<b>John Powell</b>	<b>State Farm Insurance Company</b> Testifies in support of SB 1019A. Discusses the intent of SB 1019A concerning self audits in insurance regulation. Explains why insurance attorneys are in support of SB 1019A.
121	Rep. Uherbelau	Do insurance records become public documents because of the audit requirement

		in SB 1019A?
137	Powell	Explains how a civil action for compliance to the self-audit would allow the insurance company the authority to release customer information.
149	Rep. Edwards	What is the insurance code?
152	Powell	Explains the insurance code that governs the regulation of all insurance.
169	Rep. Edwards	Is it a common practice for the insurance industry to audit themselves?
173	Powell	Explains the audit procedure of an insurance business when it is sold or a change in management to make sure the business is in compliance with insurance rules and statutes.
190	Rep. Lowe	Who does SB 1019A protect and what risks need future shielding?
192	Powell	Explains what the risk and policy issue is in regulating insurance.
242	Rep. Uherbelau	What would be protected under the audit compliance?
250	Powell	Explains what would be protected with an insurance audit.
256	Rep. Uherbelau	Expresses concerns about discriminatory pricing in audits that would be protected.
272	Powell	There isn't any way to protect an insurance company from scrutiny because of the filing and pricing with the insurance division which is public information.
280	Vice Chair Williams	Discusses why the protection provided by SB 1019A is important for insurance companies complying with the self-audit procedure.
295	Rep. Wells	There doesn't seem to be much protection when a director can acquire the insurance information which could be released to the public.
300	Powell	Under ORS 192, the audit information is not subject to public disclosure when the insurance regulator takes the audit information from the insurer. Discusses the authority of the insurance regulator to monitor insurance companies.
331	Rep. Wells	Could a civil or criminal proceeding open up the insurance audit information to the public?



337	Powell	Explains the penalties involved if audit information is released.
342	Rep. Lowe	Could a rubber stamp that says "this document is privileged and confidential" be put on documents and be held from competitors and attorneys. What are the safeguards for disclosing public records?
367	Powell	Explains how a judge reviews the audit documents if it was done for fraudulent purposes and it is up to the judge whether to release the information.
390	Vice Chair Williams	Explains the penalties for releasing public information unless it was used in a fraudulent purpose.
404	Powell	Explains why the audit document could not be used in a court proceeding unless that information is used for fraudulent purposes by the insurance company. SB 1019A is an effort to promote self-examination by an insurance company without having to disclose the insurance information.
490	Vice-Chair Williams	Closes public hearing.
<b>Tape 171, A</b>		
<b><u>SB 1019A n WORK SESSION</u></b>		
<b>010</b>	<b>Rep. Walker</b>	<b>MOTION: Moves SB 1019A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0</b> <b>AYE: 7 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams</b> <b>EXCUSED: 2 - Witt, Shetterly</b>
	<b>Vice-Chair Williams</b>	<b>The motion CARRIES.</b>  <b>REP. EDWARDS will lead discussion on the floor.</b>
030	Vice Chair Williams	Recesses at 3:21 p.m.
032	Chair Shetterly	Reconvenes at 3:28 p.m.
<b><u>SB 50A n WORK SESSION</u></b>		

037	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. Presents the -A8 (EXHIBIT I).
049	Rep. Williams	<b>MOTION: Moves to ADOPT SB 50A-A8 amendments dated 05/19/99.</b>
		<b>VOTE: 7-1</b> <b>AYE: 7 - Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly</b> <b>NAY: 1 - Backlund</b> <b>EXCUSED: 1 - Witt</b>
	Chair Shetterly	<b>The motion CARRIES.</b>
078	Rep. Williams	<b>MOTION: Moves SB 50A to the floor with a DO PASS AS AMENDED recommendation.</b>
	Rep. Uherbelau	<b>VOTE: 7-1</b> <b>AYE: 7 - Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly</b> <b>NAY: 1 - Backlund</b> <b>EXCUSED: 1 - Witt</b>
	Chair Shetterly	<b>The motion CARRIES.</b>  <b>REP. WILLIAMS will lead discussion on the floor.</b>
090	Chair Shetterly	Closes work session.
098	Chair Shetterly	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WILLIAMS to BE RECORDED as voting AYE on SB 817A with a DO PASS recommendation.</b>
102	Chair Shetterly	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WILLIAMS to BE RECORDED as voting AYE on SB 1019A with a DO PASS recommendation.</b>

Submitted By, Reviewed By,

Nancy Richards, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

- A - SB 795A, Written testimony, Rep. Yih, p. 1**
- B - SB 795A, Written testimony, Rep. Yih, p. 1**
- C - SB 795A, Written testimony, Rob Bovett, p. 1**
- D - SB 795A, Proposed -A5 amendments, Rob. Bovett, p. 1**
- E - SB 795A, Written testimony, Robert Babcock, p. 8**
- F - SB 795A, Proposed -A6 amendments, Counsel, p. 1**
- G - SB 795A, Written testimony, Gail O'Connell-Babcock, p. 42**
- H - SB 817A, Written testimony, Kathy Ledesma, p. 2**
- I - SB 50A, Proposed -A8 amendments, Counsel, p. 1**