

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

May 06, 1999 Hearing Room 357

1:00 p.m. Tapes 151 - 152

**MEMBERS PRESENT: Rep. Lane Shetterly, Chair**

**Rep. Max Williams, Vice-Chair**

**Rep. Vic Backlund**

**Rep. Randall Edwards**

**Rep. Kathy Lowe**

**Rep. Vicki Walker**

**Rep. Larry Wells**

**Rep. Bill Witt**

**MEMBER EXCUSED: Rep. Judy Uherbelau, Vice-Chair**

**STAFF PRESENT: Aaron Felton, Counsel**

**Nancy Richards, Administrative Support**

**MEASURE/ISSUES HEARD: SB 268A - Work Session**

**HB 3245 - Work Session**

**SB 387A - Work Session**

**SB 839A - 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 151, A		

003	Vice-Chair Williams	Calls meeting to order at 1:39 p.m.
<b><u>SB 268A - WORK SESSION</u></b>		
019	<b>Hasina Squires</b>	<b>Special Districts Association of Oregon (SDAO)</b>  Testifies and submits written testimony in support of SB 268A and submits written testimony on behalf of Mayor James Torrey ( <b>EXHIBITS A &amp; B</b> ). Explains the purpose of SB 268A which creates affirmative defense in action under Oregon Tort Claims Act based on year 2000 failure (Y2K) of automated systems.
028	<b>Dan Hartman</b>	<b>Risk Management Division, Department of Administrative Services (DAS), Public Risks Managers Association (PRIMA)</b>  Testifies and submits written testimony in support of SB 268A ( <b>EXHIBIT C</b> ). Discusses how public entities will pay for negligent lawsuits that will result from the Y2K problems. Discusses the six elements that constitute standard good faith efforts by public entities.
073	Rep. Lowe	What are the anticipated problems with the Y2K failure?
081	<b>Barbara Jensen</b>	<b>Statewide Y2K Project Office</b>  Explains why the scope of the Y2K problem has grown larger.
099	Rep. Lowe	Why do agencies need the immunity of lawsuits concerning the Y2K problem?
101	Jensen	Discusses the compliance of all entities to prepare for the Y2K problem.
122	Rep. Lowe	Asks for examples of the some of the problems that the Y2K issue would create.
125	Jensen	Explains the basic concerns of local governments if utilities are shutdown. Explains how the Y2K problem would effect emergency vehicles.
159	Rep. Wells	Have the entities met the goals of fixing the Y2K problem?
183	Jensen	Explains the time lines for computer system readiness for the Y2K problem.
216	Rep. Wells	Why would anyone oppose SB 268A?
220	Hartman	Explains some of the reasons for opposition to SB 268A.
238	Rep. Edwards	Asks about the difference between HB 3245 and SB 268A concerning the Y2K

		problem.
250	Hartman	Explains the difference between HB 3245 and SB 268A.
265	Rep. Edwards	Why doesn't SB 268A refer to computer failures?
271	Hartman	There is a reference to computers in SB 268A on page 2, lines 14-15.
279	Rep. Edwards	Is there a different logic with the reference of computers between SB 268A and HB 3245?
290	Hartman	There really isn't any difference.
292	Rep. Edwards	Won't the lawsuits come after the date of January 1, 2000?
311	Hartman	Yes, but lawsuits could be filed on Y2K preparation work that took place before January 1, 2000.
324	Jensen	Discusses the "danger dates" where systems don't connect which could be now or after the date of January 1, 2000.
339	Rep. Lowe	What are the danger dates besides June 30, 1999 which is the start of the fiscal year and September 9, 1999?
348	Jensen	I will get back to the committee about the other danger dates.
366	Rep. Lowe	What about adding a sunset provision to SB 268A which would add a cut-off date for lawsuits?
374	Jensen	Explains the computer program that would monitor problems into June 1, 2001.
382	Vice-Chair Williams	Explains the difference between HB 3245 and SB 268A regarding danger dates.
402	Jensen	Discusses the Y2K effect on the phone system.
415	Vice-Chair Williams	What will the businesses that solve the Y2K problem be doing on New Year's Eve in year 2000?
421	Jensen	Explains the office's schedule on New Year's Eve in year 2000.
447	Rep. Lowe	Asks about the 8-year statute of limitation concerning the Y2K problem.

482	Vice-Chair Williams	Closes work session.
<b>Tape 152, A</b>		
<b><u>HB 3245 - WORK SESSION</u></b>		
033	<b>Jim Craven</b>	<b>Oregon Council of the American Electronics Association</b> Testifies in support of HB 3245. Discusses how the -1 amendments address the issues raised at the last public hearing concerning language clarification <b>(EXHIBIT E)</b> .
085	Rep. Lowe	What about purchased computers that have already passed the statute of limitations as stated in HB 3245?
096	Craven	Explains computer warranties relating to the Y2K problems.
135	Rep. Lowe	What about the 8-year statute of limitation regarding old computers in businesses and agencies?
149	Craven	Explains what the intent of HB 3245 is regarding computer warranties.
156	Chair Shetterly	Would an elevator system that has computer chip control fall under the 8-year statute of limitation?
161	Craven	It would depend upon what the warranty would say.
187	Rep. Lowe	Does the term "expressly warranted" on lines 24-25, page 2 in HB 3245 narrow the scope of lawsuits due to product failure?
196	Craven	I do not know.
201	Chair Shetterly	Explains the 8-year product warranty in relationship to "expressly warranted".
209	Rep. Lowe	Asks about the 8-year product warranty in HB 3245 and the danger dates being beyond that 8-year warranty.
222	Craven	Discusses the cause of action issues that would have to be brought within 2 years from the discovery of a problem.
242	Rep. Edwards	What would the relationship be with computer main frames and the Y2K problem?

249	Craven	Explains the litigation reform concerning warranties of computer systems.
282	Rep. Edwards	What about danger dates beyond the 8-year statute of limitation provision in HB 3245?
297	Craven	Those danger dates will be addressed later.
306	Chair Shetterly	Doesn't "subsequent years" on line 13, page 1 of HB 3245 address danger dates later than January 1, 2000?
323	Craven	HB 3245 wouldn't cover something purchased in 1983, but would cover something purchased 8-years prior to January 1, 2000.
330	Rep. Edwards	Aren't we just trying to address problems that occur right after January 1, 2000?
343	Craven	The bulk of the problems are being addressed today and will not be an infinite issue.
362	Rep. Edwards	The concern with the Y2K problem will be within this next year.
370	Chair Shetterly	HB 3245 covers date related computer failures from 1999 on.
388	Craven	States that "computer date failure" is the preferred language in describing the Y2K problem.
405	Chair Shetterly	Suggests blending both SB 268A with HB 3245 in solving the same problems.
416	Craven	Discusses the possibility of working out blending SB 268A with HB 3245.
435	Rep. Lowe	Expresses support for HB 3245 except for the desire to delete the word "expressly" on page 2, line 24 of HB 3245.
456	Chair Shetterly	Discusses the problems with deleting the word "expressly".
474	Rep. Witt	Expresses his support of not deleting the word "expressly".
<b>Tape 151, B</b>		
<b>026</b>	<b>Rep. Edwards</b>	<b>MOTION: Moves to ADOPT HB 3245-1 amendments dated 05/06/99.</b>

		<p><b>VOTE: 8-0</b></p> <p><b>EXCUSED: 1 - Rep. Uherbelau</b></p>
	Chair Shetterly	Hearing no objection, declares the motion <b>CARRIED</b> .
030	Rep. Edwards	<b>MOTION: Moves HB 3245 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<p><b>VOTE: 8-0</b></p> <p><b>AYE: 8 - Backlund, Edwards, Lowe, Walker, Wells, Williams, Witt, Shetterly</b></p> <p><b>EXCUSED: 1 - Uherbelau</b></p>
	Chair Shetterly	<p>The motion <b>CARRIES</b>.</p> <p><b>REP. WILLIAMS will lead discussion on the floor.</b></p>
<b><u>SB 387A n WORK SESSION</u></b>		
055	Counsel Felton	SB 387A allows juvenile court to proceed with parental rights proceeding notwithstanding fact that jurisdictional proceeding has been appealed.
064	Melinda Bruce	<p><b>Assistant Attorney General, Family Law Division</b></p> <p>Explains the -2 amendments concerning consolidated appeals with parental rights (<b>EXHIBIT F</b>).</p>
094	Rep. Lowe	<b>MOTION: Moves to ADOPT SB 387-2 amendments dated 05/06/99.</b>
		<p><b>VOTE: 8-0</b></p> <p><b>EXCUSED: 1 - Rep. Uherbelau</b></p>
	Chair Shetterly	Hearing no objection, declares the motion <b>CARRIED</b> .
098	Rep. Lowe	<b>MOTION: Moves SB 387A to the floor with a DO PASS</b>

		<b>AS AMENDED recommendation.</b>
101	Rep. Wells	Why did five Senate members oppose SB 387?
107	Bruce	I do no know. There was some discussion in the Senate Judiciary Committee about having all juvenile court appeals expedited in the Appellate Courts.
119	Rep. Wells	Is the expedited process only on termination of parental rights cases?
122	Bruce	Yes. That issue is addressed in the -2 amendments of SB 387A.
		<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Walker, Wells, Williams, Witt, Shetterly</b> <b>EXCUSED: 1 - Uherbelau</b>
Chair Shetterly		<b>The motion CARRIES.</b>  <b>REP. WELLS will lead discussion on the floor.</b>
<b><u>SB 839A ñ WORK SESSION</u></b>		
148	Counsel Tweedt	SB 839A specifies procedures for opening safe deposit box of person who has died. Explains the -A2 which requires a bank attendant when the deposit box is opened and the -A4 amendments which clarifies documents in the deposit box <b>(EXHIBITS G &amp; H)</b> .
160	<b>Tim Martinez</b>	<b>Oregon Bankerís Association</b> Explains that the -A2 and -A4 amendments solve the concerns with SB 839A.
185	Rep. Williams	<b>MOTION: Moves to ADOPT SB 839-A2 amendments dated 04/06/99.</b>
		<b>VOTE: 7-0</b> <b>EXCUSED: 1 - Rep. Uherbelau and Rep. Edwards</b>

	<b>Chair Shetterly</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>189</b>	<b>Rep. Williams</b>	<b>MOTION: Moves to ADOPT SB 839-A4 amendments dated 04/26/99.</b>
		<b>VOTE: 7-0</b> <b>EXCUSED: 1 - Rep. Uherbelau and Rep. Edwards</b>
	<b>Chair Shetterly</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>193</b>	<b>Rep. Williams</b>	<b>MOTION: Moves SB 839 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b> <b>AYE: 7 - Backlund, Lowe, Walker, Wells, Williams, Witt, Shetterly</b> <b>EXCUSED: 2 - Edwards, Uherbelau</b>
	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>  <b>REP. WELLS will lead discussion on the floor.</b>
<b>219</b>	<b>Chair Shetterly</b>	<b>Adjourns meeting at 3:00 p.m.</b>

Submitted By, Reviewed By,



Nancy Richards, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - SB 268, Written testimony, Hasina Squires, p. 2**

**B - SB 268, Written testimony, Mayor Torrey, p. 1**

**C - SB 268, Written testimony, Dan Hartman, p. 2**

**D - SB 268, Written testimony, Barbara Jensen, p. 4**

**E - SB 3245, Proposed -1 amendments, Jim Craven, p. 1**

**F - SB 387, Proposed -2 amendments, Melinda Bruce, p. 1**

**G - SB 839, Proposed -A2 amendments, Counsel, p. 1**

**H - SB 839, Proposed -A4 amendments, Counsel, p. 5**

**I - SB 268, Written testimony, Rodney Norton, p. 2**