

SENATE COMMITTEE ON JUDICIARY

February 16, 1999 Hearing Room 343

3:00 p.m. Tapes 38-39

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Anne Tweedt, Counsel

Judy Minnich, Administrative Support

MEASURE/ISSUES HEARD: Possible Measure Introduction

SB 350 Work Session

SB 202 Public Hearing and Work Session

SB 203 Public Hearing and Work Session

HB 2110 Public Hearing and 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 38, A		
004	Chair Bryant	Calls the meeting to order at 3:12 p.m.
	Counsel Anne	Introduces:

	Tweedt	<ul style="list-style-type: none"> • LC 1561, relating to conservators and declaring an emergency; • LC 1378, relating to unemployment insurance tax rate of employing unit that acquires employer; • LC 2248, relating to exemptions from construction regulation; • LC 2658, relating to sex offenders, appropriating money and declaring an emergency; • LC 2204, relating to commercial real estate liens; • LC 2230, relating to contraband; • LC 2347, relating to firearms; • LC 1921, relating to insurance.
018	Sen. Bryant	MOTION: Moves LC's: 1561, 1378, 2248, 2658, 2204, 2230, 2347, 1921 BE INTRODUCED as committee bills.
		VOTE: 5-0-2 EXCUSED: 2 ñ Brown, Nelson
Chair Bryant		Hearing no objection, declares the motion CARRIED.
029	Chair Bryant	Opens work session on SB 350.
<u>SB 350 WORK SESSION</u>		
030	Anne Tweedt	Committee Counsel Indicates that at the previous hearing on SB 350, concern was voiced regarding the deletion of current statutory categories for private security providers and whether this would lead to additional training requirements. The Board on Public Safety Standards and Training has indicated that this is not their intent and has reassured the interested parties so they are now comfortable with this wording. The SB 350ñ2 amendments are now in LC form (EXHIBIT A) and they provide that the Board on Public Safety Standards and Training will collaborate with the Advisory Committee on Private Security Services before raising fees.
052	Sen. Courtney	MOTION: Moves to ADOPT SB 350--2 amendments dated 02/16/99.
		VOTE: 6-0 EXCUSED: 1 ñ Brown
Chair Bryant		Hearing no objection, declares the motion CARRIED.

054	Sen. Courtney	MOTION: Moves SB 350 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
058	Chair Bryant	Opens the public hearing on SB 202.
<u>SB 202 PUBLIC HEARING</u>		
071	Bill Anton	Chair, Oregon Board of Investigators (OBI) Introduces interim Executive Director of the Oregon Board of Investigators.
078	Elaine N. Hamm	Oregon Board of Investigators (OBI) Submits written testimony and testifies in support of SB 202 (EXHIBIT B). Discusses the reasons that OBI would like to eliminate some of the exemptions from licensure which currently exist in ORS 703.411. ORS 703.411(1) exempts "a person employed exclusively by one employer in connection with the affairs of that employer only." Perhaps the intent was to exempt retail establishments from meeting licensing requirements. It has been used to exempt investigative firms from licensing requirements.
135	Chair Bryant	Indicates that the exceptions to the law came out of a compromise when the bill was legislated into law.
136	Hamm	Discusses the elimination of the exemption of peace officers that provide private investigative services for only one client.
148	Chair Bryant	Asks questions regarding the reasoning for this requested change.
154	Anton	A law enforcement officer has no supervision when working as a private investigator. Requiring a license provides some accountability.

162	Hamm	ORS 703.411(6) exempts guard dog trainers from licensing requirements.
170	Chair Bryant	You want to license people who train animals?
172	Hamm	If they fit into the definition of investigators.
176	Hamm	Discusses the reasons for requiring licensure of legal assistants or paralegals that do investigative work for an attorney, ORS 703.411(9).
204	Hamm	Discusses the amendments they would like to have made to ORS 703.425 regarding proof of security issues.
225	Anton	Indicates that errors and omissions insurance is usually for considerably more coverage than \$5000. The requirement is of very little, if any, protection to the public.
234	Hamm	Continues discussion of the proposed changes in proof of security issues. Discusses the need to bring DMV requirements for access to their records in line with the proposed changes.
299	William Houser	Attorney, Yamhill County Testifies against SB 202. Indicates that if legal assistants and paralegals can't do this work, the attorneys will have to do it. This will add to the costs of legal work. Our clients would not be well served.
355	Chair Bryant	Indicates that he prefers that the exemptions be unchanged. Asks if the changes in proof of security issues pose a problem.
376	Houser	I don't have a problem with the proof of security proposals or with the DMV records.
382	Mark Lawrence	Attorney, Yamhill County Indicates that if the exemptions are to remain as is, his testimony is unnecessary.
386	Michael Zerwes	Attorney, Portland Indicates that he is against changing the current exemptions.
397	Jerry W. Elshire	JWE and Associates, Inc. Testifies against SB 202. Discusses his problems with the current statute and the OBI in attempting to ascertain whether he is exempt from the licensure requirement under ORS 703.411(1) since his corporation deals only with private investigation. He has received different opinions from different officials.

457	Chair Bryant	Your corporation is a private investigation firm and you want to know if you are exempt under this statute?
Tape 39, A		
028	Elshire	Yes. Continues discussing his difficulties with the OBI and the enabling legislation.
059	Chair Bryant	I don't recall the legislative intent.
063	Sen. Qutub	Discusses her memory of legislative intent. Believes ORS 703.411(1) was intended to refer to corporations like Wal-Mart and Meier & Frank, but not to a corporation whose business is private investigation.
080	Tom Mann	Licensed Private Investigator Testifies in support of SB 202. Indicates that the original legislation was opposed by the industry. The changes that are being suggested in SB 202 meet some of their objections. Thinks that anyone doing the work of an investigator as defined in the statute should be licensed.
160	Chair Bryant	If we were considering creating the Oregon Board of Investigators today, would you support it?
161	Mann	I would be against creating it. Discusses need for background check of investigators.
175	Sen. Qutub	There was a perception that since other states license investigators, we could add an element of professionalism by licensing them.
186	Thia Bell	Licensed Private Investigator Submits written testimony and testifies against SB 202 (EXHIBIT C). Indicates her support of licensing private investigators, but thinks the original legislation is flawed. The OBI was unable to function due to lack of funding and unclear guidelines in the enabling legislation. Suggests amendments to SB 202 and discusses these amendments.
264	Chair Bryant	I would like to review the legislative history on this issue. We will contact you should we decide to take further action on SB 202.
265	Bell	Continues testimony.
288	Sen. Nelson	Indicates that Rep. Tom Butler was in the audience and was unable to stay. He wants to let us know that he is opposed to SB 202.

296	Ingrid Swensen	Oregon Criminal Defense Lawyers Association (OCDLA) & Metropolitan Public Defender Testifies against SB 202. Indicates there would be a significant cost, which was not noted in the fiscal report, if local jurisdictions had to either hire licensed investigators or pay the cost of licensing their investigators.
332	Chair Bryant	We will do the legislative research on the enabling legislation and then see where we are.
350	Chair Bryant	Closes public hearing and opens work session on SB 202.
<u>SB 202 WORK SESSION</u>		
351	Sen. Brown	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BROWN to BE RECORDED as voting AYE on the motion to move SB 350 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
356	Counsel Tweedt	Introduces LC 1842, relating to insurance fraud.
360	Sen. Bryant	MOTION: Moves LC 1842 BE INTRODUCED as a committee bill.
		VOTE: 7-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
367	Chair Bryant	Opens the public hearing on SB 203.
<u>SB 203 PUBLIC HEARING</u>		
370	Bill Anton	Chair, Oregon Board of Investigators (OBI)

		Discusses the difficulties of implementing the enabling legislation that created the OBI. Cites unrealistic deadlines, inadequate funding, lack of office furniture and equipment and incomplete Board membership. Indicates that they did have a difficult start and some of the suggestions they have for changes in the statute surfaced as a result of those difficulties. Feels the Board now has overcome many of the roadblocks and believes that licensing is a valuable and valid way to assist the private investigator profession.
Tape 38, B		
013	Sen. Brown	When were board members appointed?
015	Anton	They were appointed in December of 1997. Board members were confirmed by the Senate in November. There were less than 180 days to get up and running.
022	Sen. Brown	You are a citizen volunteer? May I ask your background?
025	Anton	Indicates he is a citizen volunteer as are all board members. Discusses his educational and employment background.
028	Sen. Brown	So you had to get rules up and going very quickly?
032	Anton	April 4, 1998 was the deadline we had to meet to be in compliance with the law.
037	Elaine N. Hamm	Oregon Board of Investigators (OBI) Submits written testimony and testifies in support of SB 203 (EXHIBIT D). Indicates that SB 203 modifies the photograph requirement for investigator license and operative registration. It will allow the OBI to prescribe the requirement by rule.
049	Thia Bell	Licensed Private Investigator Continues testifying on the changes that are needed in the enabling legislation. Indicates she has no particular problem with SB 203.
094	Sen. Nelson	Indicates he is having difficulty ascertaining which part of the bill is being discussed.
095	Sen. Brown	I believe it is on page 2 of Exhibit C, lines 15-18, and 26.
103	Bell	My copy of SB 203 must be an older version than yours. I have been told that testimony can be addressed to any part of the enabling statute. Discusses the existing language in the statute.

116	Sen. Tarno	I think we may disagree on some of these issues. Perhaps it would be better if we discussed SB 203 rather than the existing statute.
122	Counsel Tweedt	Notes that the sections being discussed are in SB 202 and perhaps the concerns should be addressed when SB 202 is heard again.
154	Sen. Courtney	Close the public hearing and opens the work session on SB 203.
<u>SB 203 WORK SESSION</u>		
174	Sen. Brown	MOTION: Moves SB 203 to the floor with a DO PASS recommendation.
180	Sen. Nelson	Discusses his hope that Ms. Bellis concerns will be addressed.
184	Sen. Brown	Speaks to SB 203 and indicates that Ms. Bellis concerns are more appropriately addressed through SB 202.
197	Sen. Qutub	Indicates that she too hopes that Ms. Bellis concerns are met, but believes they can be through SB 202.
		VOTE: 5-0-2 EXCUSED: 2 - Burdick, Bryant
Vice-Chair Courtney		Hearing no objection, declares the motion CARRIED. BRYANT will lead discussion on the floor.
207	Vice-Chair Courtney	Closes the work session on SB 203 and opens a public hearing on HB 2110.
<u>HB 2110 PUBLIC HEARING</u>		
212	Elaine Hamm	Oregon Board of Investigators Submits written testimony and testifies in support of HB 2110 (EXHIBIT E). SB 2110 modifies the provisions relating to criminal background checks for investigator or operative applicants.
230	Anton	It was my understanding the intent of the original legislation was to include FBI background checks. The specific language was not included in the legislation, so

		we are prevented from having these checks made.
236	Patricia Whitfield	Oregon State Police, Identification Services Section Testifies that the amendments will clarify background checks.
246	Vice Chair Courtney	Asks if there are amendments.
247	Counsel Tweedt	Indicates she received a fax but was unable to ascertain exactly what change was being requested. Asked the witnesses to come to the hearing and explain their amendments and then we would draft the appropriate wording.
254	Whitfield	The amendments: <ul style="list-style-type: none"> • Would clarify that the background checks through the state and FBI are based on fingerprints rather than just the application documents. • For efficiency, allow the FBI to either destroy or return the fingerprint card when reporting their response back to the state police. • Would clarify that any fingerprint cards that are returned to the state police from the FBI would be returned to the OBI.
278	Counsel Tweedt	I understand that there was some concern about actually specifying the number of fingerprint cards in the statute. If that is the case, we should probably discuss that.
286	Hamm	At present the statute requires three cards. We don't really need a third card, so we'd like to reduce that to two, but do it by rule and take the number requirement out of the statute in case our requirements should change and we need more than two in the future.
300	Counsel Tweedt	Your amendments will require that one is kept by OBI and one is kept by the state police. Reducing the number by rule may cause conflicts.
310	Hamm	Could we have a statutory requirement to specify we must make a rule to specify the number required?
319	Counsel Tweedt	It can be worked out.
320	Sen. Tarno	What does the background investigation consist of?
322	Whitfield	Discusses background checks.
374	Thia Bell	Licensed Private Investigator Testifies against HB 2110. Discusses objections to HB 2110.

Tape 39, B		
024	Bell	Indicates that they should only get criminal records when requesting background checks, not anything the state police may have. Indicates the time frame for renewal of licenses is too short. The penalty for untimely renewal is too draconian.
052	Sen. Qutub	Discusses the meaning of the current statute.
072	Bell	Discusses the ethics test that is part of the licensing process.
085	Chair Bryant	Have you presented these concerns to the Board?
089	Bell	No. The group I represent has not done that.
097	Tom Mann	Licensed Private Investigator Testifies in support of HB 2110. Would like reciprocity with other states in order that investigations can be followed from state to state. In order to have this reciprocity we must meet their standards.
134	Chair Bryant	Closes public hearing at 4:45 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ SB 350, SB 350-2 amendments dated 2/16/99, LC 725, staff, 1 pp

B ñ SB 202, written testimony dated February 16, 1999, Elaine Hamm, 2 pp

C ñ SB 202, SB 203, HB 2110, written testimony, Thia Bell, 4 pp

D ñ SB 203, written testimony dated February 16, 1999, Elaine Hamm, 1 pp

E ñ HB 2110, written testimony dated February 16, 1999, Elaine Hamm, 1 pp