

## SENATE COMMITTEE ON JUDICIARY

February 02, 1999 Hearing Room 343

3:00 pm Tapes 22 - 23

**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:** Public Hearing and Work Session

SB 176

SB 350

SB 384

SB 385

HB 2318

HB 2388

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 22, A**

003	Chair Bryant	Calls the meeting to order at 3:14 p.m.
004	Anne Tweedt	<b>Committee Counsel</b>  Introduces committee bills: LC 215, relating to independent practices associations; LC 572, relating to firearms; LC 1237, relating to ground water appropriations permits; LC 2319, relating to transferable development credits; LC 2658, relating to sex offenders.
009	Sen. Bryant	<b>MOTION: Moves LC's: 215, 572, 1237, 2319, 2658 BE INTRODUCED as committee bills.</b>
		<b>VOTE: 6-0-1</b>  <b>EXCUSED: 1 - Brown</b>
	Chair	<b>Hearing no objection, declares the motion CARRIED.</b>
019	Chair Bryant	Opens the public hearing on HB 2318.
<b><u>HB 2318 PUBLIC HEARING</u></b>		
037	Rep. Floyd Prozanski	<b>State Representative, House District 40,</b>  Testifies in favor of HB 2318 which is an update of Oregon's tax code to bring it in line with the federal statutes on Roth IRAs. Makes the Roth IRA exempt from execution on judgment as are other IRAs.
050	Chair Bryant	Asks how this issue came to his attention.
055	Rep. Prozanski	Indicates that he had constituents who brought it to his attention.
059	Chair Bryant	Closes the public hearing and opens a work session on HB 2318.
<b><u>HB 2318 WORK SESSION</u></b>		
060	Sen. Courtney	<b>MOTION: Moves HB 2318 to the floor with a DO PASS recommendation.</b>

		<b>VOTE: 7-0</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. NELSON will lead discussion on the floor.</b>
070	Chair Bryant	Closes work session on HB 2318 and opens public hearing on HB 2388.
<b><u>HB 2388 PUBLIC HEARING</u></b>		
072	<b>Rep. Lane Shetterly</b>	<b>State Representative, House District 34</b>  Testifies in support of HB 2388 which amends ORS.192.502, a statute in which exemptions in the public records law are found. Exemptions for certain records in public housing already exist. This bill extends this exemption to local housing authorities.
110	<b>Peter Grundfossen</b>	<b>Association of Oregon Housing Authorities</b>  Submits written testimony and testifies in support of HB 2388 ( <b>EXHIBIT A</b> ). Discusses housing authorities. Indicates that HB 2388 gives to housing authorities the same exception to the requirement of public disclosure that the legislature extended to the Department of Housing and Community Development.
155	Chair Bryant	Asks if there is actual reluctance from developers to work with the housing authority because public disclosure is required.
170	Grundfossen	Indicates that it is not an equal playing field.
172	Rep. Shetterly	Says this bill is equalizing the playing field between Housing and Community Development and the local housing authorities.
177	Sen. Courtney	Asks Representative Shetterly whether public disclosure laws cover school or library construction
188	Rep. Shetterly	Indicates that the public disclosure and public contracting laws cover construction of public facilities and this bill does not impact established procedures in the bid and award process.
205	Chair Bryant	The process of bidding and award for public facilities is open and bidders by the bidders are required insuring their ability to perform.

214	Sen. Courtney	Are we going to do things for the housing authorities that we are not going to do for other public entities such as school districts or other local authorities?
228	Chair Bryant	I don't believe that the cities and counties would ask for it. Currently counties and cities do not need or ask for the types of information that we are talking about here.
239	Rep. Shetterly	This information also includes tenant files as well as developers information.
260	<b>Lori Bocker</b>	<b>Oregon Newspaper Publishers Association (ONPA)</b>  Submits written testimony and testifies in opposition to HB 2388 in its current form ( <b>EXHIBIT B</b> ). ONPA is concerned about the continued erosion of public disclosure laws in Oregon. Before any further exemptions from the public disclosure law are passed a clear public interest should be demonstrated.
328	Chair Bryant	Notes that articles of incorporation would be available because these are public records through the office of the Secretary of State but the partnership and operating agreements would not. Discusses the testimony that was given in 1997 hearings.
384	Sen. Courtney	Asks if the ONPA appeared before the house committee that heard this bill?
389	Bocker	No, indicates that they had been trying to obtain information on the bill and had a meeting scheduled with Rep. Shetterly next week.
399	Chair Bryant	Indicates that passing out this bill can wait for ONPA to obtain the information it needs.
415	Rep. Shetterly	The purpose of the bill was not to revisit the list of exemptions but to equalize the treatment of state and local authorities.
450	<b>LeRoy Yorgason</b>	<b>Executive Director, Oregon Newspaper Publishers Association</b>  Indicates that ONPA doesn't have objections to the state and local authorities being treated equally. ONPA thought it might be time to revisit the items that are exempt from public disclosure in both jurisdictions.
458	Chair Bryant	Closes public hearing on HB 2388.
474	Chair Bryant	Opens public hearing on SB 176.
<b><u>SB 176 PUBLIC HEARING</u></b>		
<b>Tape 23, A</b>		

035	<b>Paul Donheffner</b>	<b>State Marine Board</b>  Submits written testimony and testifies in favor of SB 176 ( <b>EXHIBIT C</b> ). SB 176 is an effort to improve the current statues that provide authority for dealing with abandoned or derelict boats on the waters of this state. SB 176 tries to simplify and shorten this process. It is linked to ORS 98.245 which governs the disposition of unclaimed or abandoned property.
090	Sen. Tarno	When a vessel is picked up, who pays the storage fee?
092	<b>John Raichl</b>	<b>Clatsop County Sheriff, Oregon State Sheriffs Association, Marine Affairs Committee</b>  Indicates that the sheriff is responsible for storage.
106	Chair Bryant	Is every boat licensed?
112	Donheffner	All motorized boats and vessels over 12 feet are supposed to be registered and licensed with us.
116	Chair Bryant	If they arenit registered, how do you provide notice of removal?
118	Donheffner	We post it on the vessel for 48 hours. Then it is listed with the sheriffs office as abandoned property.
119	Chair Bryant	Discusses how SB 176 would change the current process of managing abandoned vessels.
123	Donheffner	Discusses the process as established by SB 176.
156	Chair Bryant	Indicates concern regarding liability if property removed too quickly perhaps due to difficulty in communicating.
162	Donheffner	In most instances the logistics alone will lengthen the process past the time required for legal process.
168	<b>Jenifer Robison</b>	<b>Division of State Lands</b>  Submits written testimony from Paul R. Cleary, Director, Division of State Land ( <b>EXHIBIT D</b> ) and testifies in support of SB 176. The Division of State Land is responsible for the conditions of state waterways and we currently have no recourse.
192	Sen. Nelson	What statue is the punishment in SB 176 tied to? What is the rationale?

202	Donheffner	Disposing of materials on our waterways is a Class A misdemeanor.
203	Sen. Brown	Would a canoe be considered a boat?
210	Donheffner	Yes. If it is removable and has value it usually disappears.
257	<b>Mark Landauer</b>	<b>City of Portland</b>  Indicates the City of Portland supports SB 176.
263	<b>Russ Sill</b>	<b>Harbor Master, City of Portland Bureau of Fire and Rescue</b>  Submits written testimony and testifies in support of SB 176 ( <b>EXHIBIT E</b> ). Indicates that the current process for removal of abandoned property on the waters is lengthy and time consuming.
293	Sen. Tarno	What are the hazardous substances which are found on these vessels.
299	Sill	Asbestos, oil, gasoline, paint.
303	Sen. Nelson	Have you located any drug labs?
305	Sill	Not on abandoned vessels, but that is a possibility. We need to be able to move more quickly so we can limit the potential pollution of these abandoned vessels.
338	Chair Bryant	If there were a request for a hearing on the posted notice, who would have the hearing?
341	Sill	I would post the notice and the sheriff would take care of the hearing.
348	Sen. Tarno	I assume the sheriff's office takes care of the costs?
354	Sill	That is part of the problem. It is time consuming and expensive.
360	Sen. Tarno	Will the State Marine Board pick up part of the cost?
367	Donheffner	We do contract with counties to do this now and we expect to continue that.
389	<b>Emily Cedarleaf</b>	<b>Multifamily Housing Council</b>  Testifies regarding proposed amendments to SB 176. We want to be sure that the properties which are under ORS 90.675 are exempted. Although we understand that this bill is not aimed at these properties, we feel we could have a problem.

421	<b>John Vanlandingham</b>	<b>Lane County Law and Advocacy</b>  Testifies and submits an amendment to SB 176 ( <b>EXHIBIT F</b> ). The language of SB 176 risks conflict with floating home coverage under ORS 90.675.
475	Chair Bryant	How does this amendment change this bill?
488	Cedarleaf	Explains how a punitive landlord could use SB 176 in an abusive fashion. Indicates that ORS 90.675 covers a facility defined as four or more floating homes.
<b>Tape 22, B</b>		
037	Chair Bryant	Discusses the appeal process and penalties for abandoned vehicles.
072	<b>Tim Martinez</b>	<b>Oregon Banker's Association</b>  Indicates his approval of Mr. Vanlandingham's testimony. Who pays costs, especially if there is a lienholder involved? Who notifies lienholder?
120	Chair Bryant	How does the bank normally find out about this?
120	Martinez	This is a new proposal.
130	Sen. Tarno	Who pays for the storage if a vehicle has been stolen.
134	Martinez	Probably us, if the vehicle can be identified. I will try to get more answers to my questions if this bill is brought back.
149	Chair Bryant	We probably want an appeal process. Closes public hearing on SB 176.
<b>170</b>	<b>Sen. Brown</b>	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BROWN to BE RECORDED as voting AYE on the motion to move HB 2318 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0</b>  <b>EXCUSED: 2 - Qutub, Courtney</b>
		<b>Chair Bryant</b>  <b>Hearing no objection, declares the motion CARRIED and vote is recorded.</b>

175	Chair Bryant	Opens the public hearing on SB 350.
<b><u>SB 350 PUBLIC HEARING</u></b>		
176	<b>Karen R Evans</b>	<b>Department of Public Safety Standards and Training</b>  Submits written testimony and testifies in support of SB 350 ( <b>EXHIBIT G</b> ). Indicates that this bill does several important things. It clarifies the meaning of instructors and private security providers. It also establishes levels and categories of providers. Language changes are also made for further clarification of the statute. Finally, the crimes which disqualify a person from obtaining a license are clarified.
252	Chair Bryant	Discusses the hearings held in 1997 on this issue.
260	Evans	Discusses the reasons for asking for these changes.
273	Chair Bryant	The new language broadens the ability to establish licensing categories. I would recommend that this language be checked through some of the security firms and perhaps Associated Oregon Industries ( <b>EXHIBIT H</b> ).
319	Chair Bryant	Closes the work session on SB 350 and opens the public hearing on SB 384.
<b><u>SB 384 PUBLIC HEARING</u></b>		
315	<b>Stephen K Bushong</b>	<b>Assistant Attorney General, Department of Justice</b>  Submits written testimony and testifies in support of SB 384 ( <b>EXHIBIT I</b> ). SB 384 amends the Administrative Procedures Act so that an agency may withdraw an order in an uncontested case. Current law allows withdrawal only in a contested case (ORS 183.482(6)). This will avoid unnecessary costly litigation.
347	Chair Bryant	Closes the public hearing and opens the work session on SB 384.
<b><u>SB 384 WORK SESSION</u></b>		
352	<b>Sen. Brown</b>	<b>MOTION: Moves SB 384 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-3</b>  <b>EXCUSED: 3 - Burdick, Courtney, Qutub</b>



	<b>Chair Bryant</b>	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>SEN. BRYANT will lead discussion on the floor.</b></p>
355	Chair Bryant	Opens the public hearing on SB 385.
<b><u>SB 385 PUBLIC HEARING</u></b>		
368	<b>Amy Veranth</b>	<p><b>Assistant Attorney General, Department of Justice</b></p> <p>Submits written testimony and testifies in support of SB 385 (<b>EXHIBIT J</b>). SB 385 exempts voice mail and other telephone messages from public records maintained by the State Archivist. Voice mail boxes have a limited capacity. SB 385 eliminates the problem of retention by exempting voice mail messages from this requirement.</p>
416	Chair Bryant	Closes the public hearing and opens a work session on SB 385.
<b><u>SB 385 WORK SESSION</u></b>		
418	<b>Sen. Brown</b>	<b>MOTION: Moves SB 385 to the floor with a DO PASS recommendation.</b>
		<p><b>VOTE: 4-0-3</b></p> <p><b>EXCUSED: 3 - Burdick, Courtney, Qutub</b></p>
	<b>Chair Bryant</b>	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>SEN. BROWN will lead discussion on the floor.</b></p>
423	Chair Bryant	Adjourns committee meeting at 4:36 pm.

Judith Minnich, Anne Tweedt,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

**A ñ HB 2388, testimony of Peter Grundfossen, dated February 2, 1999, 2 pp.**

**B ñ HB 2388, testimony of Lori Brocker, 1 pp.**

**C ñ SB 176, testimony of Paul Donheffner, 2 pp.**

**D ñ SB 176, testimony of Paul Cleary, dated February 2, 1999, 1 pp.**

**E ñ SB 176, testimony of Russell Sill, dated February 2, 1999, 2 pp.**

**F ñ SB 176, handwritten amendment written by John Vanlandingham, 1 pp.**

**G ñ SB 350, testimony of Karen R. Evans, dated February 2, 1999, 2 pp.**

**H ñ SB 350, testimony from Associated Oregon Industries, dated February 2, 1999, 2 pp.**

**I ñ SB 384, testimony of Stephen K Bushong, dated February 2, 1999, 1 pp.**

**J ñ SB 385, testimony of Amy Veranth, dated February 1, 1999, 1 pp.**