

SENATE COMMITTEE ON JUDICIARY

May 05, 1999 Hearing Room 343

3:00 PM Tapes 163 - 166

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Anne Tweedt, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: SB 721 - Public Hearing

SB 722 - Public Hearing

SB 723 - Public Hearing

SB 1066 - Work Session

SB 1168 - Public Hearing

SB 854 - Work Session

SB 678 - Public Hearing

SB 944 - Work Session

SB 1207 - Work Session

SB 1210 - Work Session

SB 975 - 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 163, SIDE A

004

Chair Bryant

Calls meeting to order at 3:15 p.m.

SB 1066 WORK SESSION

010

Sen. Tom Hartung**State Senator, District 3**

Testifies in support of SB 1066. SB 1066 creates a crime of unlawful horse slaughter. Discusses his family history as horse owners and breeders. Believes these animals should be treated in a respectful manner when the time comes for their death.

069

Joshua Thomas**Legislative Aide to Sen. Hartung**

Testifies in support of SB 1066. Discusses the history in California of the issue of slaughtering horses for human consumption. Horses are recognized and treated differently than animals raised for consumption. In California, the treatment of horses who are to be slaughtered for food, was inhumane and would have resulted in imprisonment if dogs or cats had been treated in such a manner.

100

Chair Bryant

Aren't there other statutes that take care of that?

103

Thomas

In California, the perception was that there was not.

104

Chair Bryant

I believe we have laws in Oregon that would make such behavior a criminal offense.

107

Thomas

Discusses the sale of wild horses by the Bureau of Land Management. Indicates that the law passed in California has resulted in a dramatic decrease in horses sold at auction for human consumption.

143

Chair Bryant

ORS 167.315 through 167.340 deals with animal abuse, abandonment and so on. Oregon law has such abuse forbidden in statute. Closes the work session on SB 1066 and opens work session on SB 1168.

148

Thomas

But that doesn't address the sale for slaughter?

149

Chair Bryant

No, it is legal right now in Oregon.

158

Sen. Brown

Discusses the cruelties that can occur in the transportation of horses for slaughter.

SB 1168 WORK SESSION

178	Sen. Peter Courtney	State Senator, District 17 Submits written testimony and testifies in support of SB 1168 as amended with the ñ1 amendments (EXHIBITS A & B). SB 1168 as amended prohibits the sale of cat or dog fur.
218	Wayne Pacelle	Vice President, National Humane Society Discusses the need for SB 1168 as amended by the ñ1 amendments. The National Humane Society believes that dogs and cats should not be grown for food or fur. Discusses the prevalence of this practice in the global economy (EXHIBITS C & D).
337	Chair Bryant	Expresses concern that it is still a violation of SB 1168 as amended if the retailer doesn't know the fur is from a dog or cat.
340	Pacelle	Retailers should bear some responsibility for selling furs. They need to be knowledgeable about their products.
367	Chair Bryant	Normally under the law, if you don't know, or should have known a violation was taking place, you cannot be found guilty.
374	Sen. Tarno	Are they raising and breeding these cats and dogs just for this purpose?
377	Pacelle	Yes. Describes the process. There are farms which breed for this purpose and sometimes strays or pets are picked up.
394	Sen. Burdick	Is there a problem in this country?
396	Pacelle	Discusses pet theft.
417	Sen. Burdick	Is there any evidence these animals are being kidnapped for the fur trade?
423	Pacelle	Not that we know of.
<u>SB 721, SB 722, SB 723 Public Hearing</u>		
014	Fred McDonnal	Executive Director, Public Employees Retirement System (PERS) Submits written testimony and testifies regarding SB 722 (EXHIBITS E, F & G). Discusses SB 722 as amended covering technical changes and clarifications suggested by the PERS Board.
034	Chair Bryant	We did not intend to change the current disability policy in Section 2 of SB 722.

040	McDonnal	Discusses the language changes needed for SB 722 to conform to the Pension plus Annuity method in the 1979 ORS. Continues discussing the technical changes found in Exhibit F. Indicates the PERS Board supports the concept of the lump sum withdrawal of employer contributions, the pooling of local government employers, employer participation in variable annuity account investments, and the distribution of earnings to employer accounts mid-year. The PERS Board opposes giving local entities the option to withdraw.
181	Jim Hill	State Treasurer Testifies regarding the PERS system and SB 722.
195	Rollie Wisbrock	State Treasurer's Office Testifies and submits written testimony regarding PERS retirement and the changes which might be needed (EXHIBIT H). Indicates that they looked at the PERS system assuming certain ground rules. The first one is that the PERS plan is for the exclusive benefit of the beneficiaries. Local government entities are not beneficiaries. The second is that the unfunded liability for retirement benefits that will be paid to current employees is the most significant part of the rate increases for many local employers. Discusses the possibility of sharing with local governments the net gain to the state realized by taxing all pensions while providing benefit increases to retired PERS members which was mandated by HB 3349 from the 1997 session.
244	Sen. Brown	Was there a shifting of state responsibility to the local entities?
250	Wisbrock	Correct. They were holding the state harmless, but not the local employers. The dollars collected in taxes on the increased benefits enriched the state and school districts but all entities were responsible for paying the increased benefits. Discusses the options to help smooth out the amount owed by the local governments and the possibility of sharing some of the windfall with local entities.
427	Chair Bryant	Notes that the dollars to share with the local governments would have to come out of the general fund.
428	Wisbrock	Yes, but it would do what we originally intended. The increase in benefits was to be offset by the increase in taxes. We have discussed this with the Legislative Revenue office and they agree with our numbers. Discusses the timing of interest crediting to the employer accounts and suggests that this be placed into SB 722 also.
Tape 163, B		
021	Hill	During the 1995 session, I asked for a task force on retirement. That task force found that fewer than half of Oregonians save for retirement through an employer sponsored pension plan. Discusses the demographics of Oregon's population and the future needs of that population. Allowing local government to opt out will only exacerbate the problem. Savings for retirement are not adequate as it is right now. At a minimum local entities should be required to enter another retirement plan. Speaks against SB 723 that would change the balance in the

		membership of the PERS Board. Believes this only disenfranchises those who are to benefit from the plan.
110	Chair Bryant	There is still representation. The funds still belong to the employees. The fiduciary duties are still in place.
115	Hill	PERS is a good system. We have had two unusual events. The first was a lawsuit that gave rise to HB 3347. The second is the outstanding earnings of the stock market. We should fix the system without doing anything drastic.
146	Greg Hartman	<p>PERS Coalition</p> <p>Testifies regarding SB 722. Testifies against creating a third tier. Creating a third tier is non-responsive to the problem and any savings realized will not appear for a long time. Notes that the current draft of the bill does not duplicate the annuity plus system from 1981. If the analytical tool to be used is combining pension and social security to reach an average retirement income, the gap between the age that fire and police personnel retire and their eligibility for Social Security is large. If you are looking to save, there is no real way to do that except by reducing benefits. Indicates the proposal of the State Treasurer to share the tax income from the increased pensions that resulted from HB 3347 should be considered. It was known at the time there would be an effect on local employers. The PERS Coalition supports the pooling of smaller employers and is against allowing them to drop out. If you pool and then some drop out, your pool changes and this could cause difficulties. The PERS Coalition supports allowing the employer to participate in the variable annuity.</p>
299	Chair Bryant	An employer who dropped out would have to leave the fund in an actuarially sound manner.
310	Hartman	The administration of this is difficult.
322	Grattan Kerans	<p>Oregon University System (OUS)</p> <p>Testifies regarding SB 722 and reiterates the Oregon University System's concern that whatever changes are made take into consideration the OUS optional retirement plan under ORS 243.800. Indicates it appears as of now that the optional OUS retirement plan is not affected by SB 722.</p>
351	Maria Keltner	<p>League of Oregon Cities (LOC), Association of Oregon Counties (AOC)</p> <p>Submits written testimony and testifies on SB 722 (EXHIBITS I & J). Indicates support for the portion of SB 722 that will allow employer participation in the variable annuity. Discusses the structural problem in PERS that led to the mismatch between employer and employee potential earnings. Indicates concern regarding the possible mandatory pooling of smaller employers. Supports the concept of local employers being allowed to opt out of the system.</p>

Tape 164, B

021	Hasina Squires	Special Districts Association of Oregon Submits written testimony and testifies regarding SB 722 (EXHIBIT K). Indicates they would like special districts to be added to the list of those employers who could elect to drop out of the PERS system.
048	Fred McDonnal	Executive Director, Public Employees Retirement System Board (PERS) Indicates he has further testimony on SB 722. Discusses Exhibit G.

SB 723 PUBLIC HEARING

095	Fred McDonnal	Executive Director, Public Employees Retirement System Board (PERS) Submits written testimony and testifies in opposition to SB 723 (EXHIBIT L).
124	Tom Whelan	Former member of the PERS Board Testifies in opposition to SB 723 with the ñ1 amendments. Discusses his experience with the administrative implementation of prior changes to the PERS system. Indicates that legislation often doesn't do what it intends to do. In order to open the board up in the past, member representatives were added. SB 723 would undo that.
253	Maria Keltner	League of Oregon Cities (LOC), Association of Oregon Counties (AOC) Testifies in support of SB 723. Indicates that the cities and counties specifically chose a representative for the PERS Board that was not a member.

SB 944 WORK SESSION

290	Dale Penn	Marion County District Attorney Testifies and submits proposed amendments in support of SB 944 which modifies the definition of forcible compulsion for sexual offense cases. (EXHIBIT M) Discusses the SB 944 ñ2 amendments which contain the language of the New York statute. Explains the prohibition against using reputation and opinion in forcible compulsion sexual offense cases. Cites situations in which the manner of a victim's dress is permissible as evidence.
424	Chair Bryant	Inquires if a victim's manner of dress would be permissible as evidence to assist in depicting the setting of a crime.

TAPE 165, SIDE A

010	Penn	Explains that manner of dress does not denote character and must not be allowed
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		as evidence in forcible compulsion cases. Discusses the situations in which manner of dress is permissible.
078	Ingrid Swenson	Oregon Criminal Defenses Lawyers Association Testifies in opposition to SB 944. Explains that SB 944 does not allow for admitting evidence of consent. Asserts that SB 944 is a prohibition against relevant evidence.
115	Chair Bryant	Has the SB 944 language withstood constitutional challenges in other states?
118	Penn	Yes. Explains that SB 944 is structured on the New York statute.
135	Sen. Qutub	MOTION: Moves to ADOPT SB 944-2 amendments dated 05/05/99.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Brown, Sen. Burdick
Chair Bryant		Hearing no objection, declares the motion CARRIED.
138	Sen. Qutub	MOTION: Moves SB 944 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Brown, Sen. Burdick
Chair Bryant		Hearing no objection, declares the motion CARRIED. SEN. QUTUB will lead discussion on the floor.
<u>SB 1207 WORK SESSION</u>		
143	Counsel Taylor	Introduces SB 1207 which requires suspension instead of revocation for Assault 2, 3 and 4 involving a motor vehicle.

154	Kelly Taylor	<p>Department of Transportation, Division of Motor Vehicles</p> <p>Testifies and submits proposed amendments in support of SB 1207. (EXHIBIT N) Discusses the SB 1207 amendments relating to waiting periods for a hardship permit. Explains that the waiting period excludes one's incarceration period.</p>
193	Chair Bryant	Does a hardship license allow one to drive for educational purpose?
196	K. Taylor	Cites the hardship license driving allowances.
200	Chair Bryant	<p>MOTION: Moves to ADOPT SB 1207-3 amendments dated 05/04/99.</p>
		<p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Sen. Brown, Sen. Burdick</p>
Chair Bryant		Hearing no objection, declares the motion CARRIED.
202	Chair Bryant	<p>MOTION: Moves SB 1207 to the floor with a DO PASS AS AMENDED recommendation.</p>
		<p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Sen. Brown, Sen. Burdick</p>
Chair Bryant		<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. BRYANT will lead discussion on the floor.</p>
205	Chair Bryant	Closes SB 1207 Work Session.
<u>SB 854 WORK SESSION</u>		
207	Chair Bryant	Discusses legislative history of SB 854 which opens Oregon State Bar and board meetings to the public. Explains the SB 854 amendments which allow academic credit for members of the legislature. (EXHIBIT O) .

220	Chair Bryant	MOTION: Moves to ADOPT SB 854-5 amendments dated 05/04/99.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Brown, Sen. Burdick
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
224	Chair Bryant	MOTION: Moves SB 854 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Brown, Sen. Burdick
	Chair Bryant	Hearing no objection, declares the motion CARRIED. CHAIR BRYANT will lead discussion on the floor.
229	Chair Bryant	Closes SB 854 Work Session.
<u>SB 678A PUBLIC HEARING</u>		
249	Jerry Purvis	Purvis Logging Testifies and submits written testimony in support of SB 678A which creates the offense of interference with agricultural operations (EXHIBIT P). Relates personal stories of vandalism on his property.
340	Chair Bryant	Discusses current laws against vandalism. How will SB 678A help?
348	Purvis	Explains why vandalism crimes are seldom enforced. Defines interference in agricultural operations.
350	Chair Bryant	Discusses current laws against vandalism.
383	Purvis	Discusses the tactics of those who interfere with agricultural operations by trespassing on and vandalizing property.

TAPE 166, SIDE A

001	Purvis	Continues discussion about the concerted efforts of those who hinder agricultural operations. Discusses the origin of SB 678A.
006	Chair Bryant	Discusses criminal mischief in relation to vandalism offenses.
010	Glen Stonebrink	Oregon Cattlemen's Association Testifies in support of SB 678A. Discusses the legislative history of SB 678A and the enhancement of penalties for vandalism offenses.
037	Sen. Brown	Was SB 678 drafted to address groups who object to agricultural operations on philosophical grounds?
041	Stonebrink	Yes.
054	Sharon Beck	Oregon Cattlemen's Association, President Testifies in support of SB 678A. Relates stories of people harassing animals and vandalizing farm property for sport.
083	Chair Bryant	Do you currently sue for vandalism damages?
084	Beck	Yes, but some things are difficult to prove. Discusses how SB 678A will serve as a deterrent to vandalism and harassment offenses.
096	Stonebrink	SB 678A applies only to those who knowingly interfere with agricultural operations.
106	Chair Bryant	Discusses the civil remedy in referee sports harassment situations. Does SB 678A refer to similar harassment? Explains current statutes to address agricultural harassment.
128	Stonebrink	Explains that some of those involved in agricultural harassment seeks to disable the industry.
147	Purvis	Cites examples of interference such as tearing up trees. Asserts that SB 678A provides greater remedy than current law.
185	Chair Bryant	Asserts that current law addresses vandalism and harassment offenses.

192	Sen. Brown	Is SB 678A intended to function as a punishment or a deterrent?
196	Purvis	A deterrence.
214	Stonebrink	Explains how SB 678A functions as a deterrent and a punishment.
221	Sen. Brown	Existing law provides sufficient punishment for vandalism offenses.
236	Michael Dale	Oregon Law Center, Attorney Testifies in opposition to SB 678A. Asserts that the broad scope of SB 678A will inevitably infringe on first amendment rights.
274	Larry Kleinman	Pineros y Campesinos Unidos del Noroeste, Secretary/Treasurer Testifies in opposition to SB 678A. Asserts that SB 678A would make farm labor disputes against the law.
303	Chair Bryant	We would specifically exempt farm labor disputes if adopted.
306	Arthur Kunis	Oregon American Federation of Labor-Civil Industrial Organization, Research/Education Director Testifies and submits written testimony in opposition of SB 678A. (EXHIBIT Q) Asserts that the scope of SB 678A is too broad.
336	Andrea Meyer	American Civil Liberties Union, Legislative Director Testifies in opposition to SB 678A. Explains that current laws on disorderly conduct, criminal trespass and criminal mischief address the proponents concerns on agricultural interference.
385	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to SB 678A. Suggests that SB 678A proponents discuss their concerns with the local district attorney.
428	Terry Lamer	Oregon Small Woodlands Association Testifies in support of SB 678A. Discusses the frustration of farm owners when their property and animals are violated.
TAPE 165, SIDE B		
003	Lamer	Continues discussion about possible remedies to agricultural land vandalism.

020	Chair Bryant	Closes SB 678A Public Hearing.
<u>SB 1210 WORK SESSION</u>		
022	Sen. Courtney	MOTION: Moves SB 1210 to the floor with a DO PASS recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Burdick, Sen. Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
<u>SB 975 WORK SESSION</u>		
026	Counsel Taylor	Introduces SB 975 which prohibits the public body from disclosing information about undercover employees of criminal justice agencies. Discusses SB 975 ñ1 amendments (EXHIBIT R).
031	Sen. Tarno	MOTION: Moves to ADOPT SB 975-1 amendments dated 05/04/99.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Burdick, Sen. Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED.
031	Sen. Tarno	MOTION: Moves SB 975 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Burdick, Sen. Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED.

		SEN. TARNO will lead discussion on the floor.
036	Chair Bryant	Closes SB 975 Work Session. Adjourns hearing at 6:05 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

EXHIBIT SUMMARY

A ñ SB 1168, written testimony, Sen. Peter Courtney, 2 pp

B ñ SB 1168, -1 amendments dated 4/20/99, 1 pp

C ñ SB 1168, written testimony from Wayne Pacelle, 2 pp

D ñ SB 1168, brochure, Humane Society of the United States, 13 pp

E ñ SB 722, -2 amendments dated 5/4/99, 32 pp

F ñ SB 722, written testimony from Fred McDonnal, 2 pp

G ñ SB 722, written testimony from Fred McDonnal, 2 pp

H ñ SB 722, written testimony submitted by Rollie Wisbrock, 5 pp

I ñ SB 722, written testimony submitted by Maria Keltner, 2 pp

J ñ SB 722, written testimony submitted by Maria Keltner, 1 pp

K ñ SB 722, written testimony submitted by Jim Whitty, 2 pp

L ñ SB 723, written testimony submitted by Fred McDonnal, 1 pp

M - SB 944 ñ2 amendments dated 5/5/99, 1 pp

N - SB 1207 ñ3 amendments dated 5/4/99, 18 pp

O - SB 854 ñ5 amendments dated 5/4/99, 1 pp

P ñ SB 678A, written testimony from Gerry Purvis, 4 pp

Q ñ SB 678A, written testimony from Arthur Kunis, 1 pp

R ñ SB 975, -1 amendments dated 5/4/99, 1 pp