

SENATE COMMITTEE ON JUDICIARY

July 08, 1999 Hearing Room C

8:00 a.m. Tapes 268 - 269

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Duncan

MEMBER EXCUSED: Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Anne Tweedt, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: SB 1009 ñ Reconsideration and Work Session

HB 2706 ñ Work Session

HB 3361 ñ Work Session

HB 3489 ñ Work Session

SJR 21 ñ Work Session

HB 2998 ñ Public Hearing and Work Session

TAPE/#	Speaker	Comments
TAPE 268, A		
002	Chair Bryant	Opens hearing at 8:10 a.m.
<u>SJR 21 WORK SESSION</u>		
003	Sen. Rick Metsger	State Senate District 14 Testifies in support of the ñ5 amendments to SJR 21 (EXHIBIT A). (A three minute portion of testimony was inaudible.)
007	Ted Ruetlinger	Legislative Counselis Office Discusses the test of the constitutionality of past initiative amendments. Indicates that six or seven of the past twenty initiatives may not have been eligible to get on the ballot if the ñ5 amendments had been in statute at that time.
013	Chair Bryant	They would have been statutory rather than constitutional changes?
014	Ruetlinger	Yes, I believe they would not have been eligible to be circulated as a possible constitutional amendment.
016	Sen. Duncan	Could we have an example?
018	Ruetlinger	Discusses past initiatives that he believes would not be eligible for the initiative under the ñ5 amendments to SJR 21.
060	Chair Bryant	Discusses the constitutionality of ballot measure 66 which dealt with the parks and salmon.
065	Ruetlinger	There are already things in the constitution which may not have been eligible for inclusion under the language proposed by the ñ5 amendments. There will have to be exceptions for things that are already in the constitution. Discusses the lottery program.
091	Sen. Courtney	Asks about the composition of the groups who are supporting this measure.
098	Sen. Metsger	Discusses the support for SJR 21 and those persons who provided previous testimony. Indicates there is a concern about placing things in the constitution which address private conduct.

129	Chair Bryant	The only difference between the ñ4 and the ñ5 amendments is the word "allocation" is that correct (EXHIBIT B) ?
132	Sen. Metsger	Yes, the interpretation of "allocation" was problematic, so the Attorney General was happy to delete it in order to clarify the language.
141	Chair Bryant	Discusses the history of addressing the initiative process.
144	Sen. Burdick	HJR 4 is a legislative referral and therefore would not be covered by this legislation?
148	Ruetlinger	Thatís correct. This only applies to initiated amendments to the constitution.
170	Sen. Bryant	MOTION: Moves to ADOPT SJR 21-5 amendments dated 7/7/99.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
173	Sen. Bryant:	MOTION: Moves SJR 21 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. METSGER will lead discussion on the floor.
<u>HB 2275B WORK SESSION</u>		
186	Chair Bryant	Discusses HB 2275B that creates the crime of mail theft.

190	Gary Pelo	Legislative Assistant to Rep. Backlund Submits written testimony and testifies in support of HB 2275 which creates a crime of mail theft (EXHIBIT C).
218	Sen. Burdick	Isn't mail theft a federal crime?
220	Pelo	It is a federal crime, but there is nothing in state statute.
224	Sen. Courtney	Asks about a bill previously heard in committee relating to mail theft.
225	Counsel Tweedt	Discusses the difference between HB 2275B and the bill previously heard.
236	Chair Bryant	We have a federal law, but we need a state misdemeanor to charge people with theft?
240	Pelo	Correct. It was original proposed as a felony but was reduced to a misdemeanor in committee.
295	Sen. Courtney	MOTION: Moves HB 2275B to the floor with a DO PASS recommendation.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED . SEN. COURTNEY will lead discussion on the floor.
305	Sen. Bryant	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote which sent SB 1009 as amended to the floor with a DO PASS recommendation.
		VOTE: 5-0 EXCUSED: 2 - Brown, Tarno

	Chair Bryant	Hearing no objection, declares the motion CARRIED.
308	Sen. Bryant	MOTION: Moves to RECONSIDER the vote by which SB 1009 as amended was sent to the floor with a DO PASS recommendation.
		VOTE: 5-0 EXCUSED: 2 - Brown, Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
<u>SB 1009 WORK SESSION</u>		
312	Counsel Taylor	Discusses the reason for the ñ 5 amendments to SB 1009 (EXHIBIT D).
328	Sen. Bryant	MOTION: Moves to ADOPT SB 1009-5 amendments dated 7/1/99.
		VOTE: 5-0 EXCUSED: 2 - Brown, Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
329	Sen. Bryant	MOTION: Moves SB 1009 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 EXCUSED: 2 - Brown, Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.

		SEN. BRYANT will lead discussion on the floor.
<u>HB 2706 WORK SESSION</u>		
331	Counsel Tweedt	Discusses HB 2706 that allows the owner of a piece of property to have a lien on timbers, including felled logs, whether the owner hires or permits a contractor to remove the timber from the property. Discusses the ñ1 amendments to HB 2706 (EXHIBIT E) .
351	Tim Martinez	Oregon Bankerís Association Testifies in support of HB 2706 with the ñ1 amendments. Indicates there may be a slight problem with subsection 4, lines 9 through 11 of the amendments and indicates that it would be prudent to clarify the meaning of only one lien.
364	Chair Bryant	Discusses possible conceptual amendments to the ñ1 amendments.
382	Counsel Tweedt	Legislative Counsel also had a concern as to how to describe the meaning of only one lien for each sale.
391	Sen. Bryant	MOTION: Moves to ADOPT HB 2706-1 amendments dated 7/6/99.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair	Hearing no objection, declares the motion CARRIED.
393	Sen. Bryant	MOTION: Moves HB 2706 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair	Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.

HB 3361A WORK SESSION

399	Chair Bryant	The question we still have before us is whether to adopt the -A6 or the ñA7 amendments to HB 3361A (EXHIBITS F & G).
401	Counsel Taylor	Indicates the committee previously adopted the ñA8 amendments with some conceptual changes (EXHIBIT H). Discusses the difference between the ñA6 and the ñA7 amendments.
441	Sen. Duncan	MOTION: Moves to ADOPT HB 3361-A7 amendments dated 6/30/99.
		VOTE: 6-0 EXCUSED: 1 ñ Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
452	Sen. Bryant	MOTION: Moves HB 3361A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 EXCUSED: 1 ñ Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. DUNCAN will lead discussion on the floor.
Tape 269, A		
<u>HB 2998A PUBLIC HEARING & WORK SESSION</u>		
022	Counsel Taylor	HB 2998A adds training on child abuse reporting to the Oregon State Barís continuing legal education requirements and credits the training to the ethics area requirement. Discusses the ñA4 amendments which clarify that the Board of Governors, by rule, can establish minimum continuing education requirements subject to the review of the Supreme Court (EXHIBIT I).

039	Sen. Duncan	MOTION: Moves to ADOPT HB 2998A-A4 amendments dated 7/6/99.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
044	Sen. Duncan	MOTION: Moves HB 2998A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 EXCUSED: 1 - Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.
<u>HB 3489A WORK SESSION</u>		
059	Chair Bryant	Discusses the background of HB 3489A and the difficulties that have occurred in attempting to address the different needs of the eastern and western parts of the state. HB 3489A authorizes land divisions for non-farm uses in exclusive farm use zones under certain circumstances.
072	Rep. Susan Morgan	State Representative, House District 4 Asks if Rep. Lundquist has presented his amendments to the committee.
086	Chair Bryant	Indicates the conceptual amendments were explained about two weeks ago.
097	Jessica Harris	Staff, Representative Lynn Lundquist's Office Submits written testimony and testifies in support of HB 3489A (EXHIBIT J). Presents the 9 amendments that are still in draft form. Discusses the details of the provisions of these amendments (EXHIBIT K).
150	Chair Bryant	Last time you were using a definition using animals per acre, and I understand

		you are working with the Department of Agriculture to have a better definition?
154	Harris	Yes, we are. We think we are very close to doing this.
162	Sen. Duncan	How are the other eastern counties feeling about this?
164	Harris	Crook and Deschutes Counties have been the pressure points because of their rapid rate of growth. Wherever the growth rate is rapid, division of land for non-farm use becomes a concern.
181	Rep. Morgan	The Willamette Valley is not addressed at all in this bill. HB 3489A addresses the eastern, southern and coastal counties. The coast will probably not be impacted as much because of the nature of the soil classifications. Discusses the ñA09 amendments and why the scheme wouldnít work for the Willamette Valley. We are searching for alternatives. If we uncouple the eastern counties from the western counties the impetus to solve the west side problems will diminish so I would hope this wouldnít happen.
246	Chair Bryant	How much more time do you need to work out the differences?
247	Rep. Morgan	The language in these amendments could be worked out in a couple of days.
253	Harris	We would like to state that the language in the ñA09 amendments would allow divisions of more than one parcel to occur according to Legislative Council.
265	Chair Bryant	Assuming we canít work it out, what then?
274	Rep. Morgan	I still feel itís a mistake to uncouple the east and west sides and to stop working on a west side fix.
284	Chair Bryant	We might have to go to next session to solve the west side problems.
<u>HB 2998A PUBLIC HEARING</u>		
304	Chair Bryant	Offers time for public testimony on HB 2998A.
319	Counsel Tweedt	Asks for clarification on the committeeís intent for HB 2706.
331	Chair Bryant	Weíll prohibit it on more than one sale now, and work on language to clarify it. Recesses the hearing at 9:05 a.m. until 1 p.m.
	Chair Bryant	Took no further testimony, did not reconvene, and adjourns hearing at 1:28 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ SJR 21, -5 amendments dated 7/7/99, 1 pp

B - SJR 21, -4 amendments dated 7/2/99, 1 pp

C ñ HB 2275B, written testimony from Gary Pelo, 1 pp

D ñ SB 1009, - 5 amendments dated 7/1/99, 1 pp

E ñ HB 2706, -1 amendments dated 7/6/99, 1 pp

F ñ HB 3361A, -A6 amendments dated 6/30/99, 2 pp

G ñ HB 3361A, -A7 amendments dated 6/30/99, 1 pp

H ñ HB 3361A, -A8 amendments dated 7/1/99, 1 pp

I ñ HB 2998A, -A4 amendments dated 7/6/99, 1 pp

J ñ HB 3489A, conceptual amendments submitted by Jessica Harris, 1 pp

K ñ HB 3489A, -A09 conceptual amendments submitted by Jessica Harris, 5 pp