

SENATE COMMITTEE ON PUBLIC AFFAIRS

June 15, 1999 Hearing Room B

3:00 P.M. Tapes 68 ñ 71

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Marylin Shannon

Sen. Charles Starr

Sen. Thomas Wilde

STAFF PRESENT: Brian E. Smith, Administrator

Nancy Massee, Administrative Support

MEASURE/ISSUES HEARD: HB 3605A Public Hearing

HB 2431A Public Hearing

HB 2007A Public Hearing

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 68, A		
003	Chair Derfler	Opens meeting at 3:00 p.m. and opens public hearing on HB 3605A.
<u>SB 3605A PUBLIC HEARING</u>		
010	Ray Thomas	Attorney representing Max Woodbury. Opposes HB 3605A. Explains client's personal experience in an accident that left him a quadriplegic. Says the concern is how SB 3605A will affect the law. Explains job-site safety in construction. Describes his client's accident due to lack of safety precautions on the job. States the general contractor was found partially responsible and says this claim will cost Workers' Compensation \$4.5 million to take care of Woodbury's special lifetime needs. Explains that the present Employer Liability Act will compensate

		Woodbury for not being able to carry out his career and repay the general contractor for the millions of dollars paid through Workers' Compensation.
133	Thomas	Emphasizes that changing the Employer Liability Act by this bill will go against those employees who need the most protection.
205	Max Woodbury	Portland. Victim of an on the job accident. Describes how three years ago he sustained a cervical injury resulting in paralysis from his chest down. Wants people to know his injury could have been prevented if safety precautions had been in place where he worked. Says HB 3605A will hinder workplace safety.
210	Chair Derfler	Closes hearing on HB 3605A. Opens public hearing on HB 2431A.
<u>HB 2431A PUBLIC HEARING</u>		
250	John Ledger	Associated Oregon Industries (AOI). Says HB 2431A has been agreed upon by the interested parties. The bill addresses the community right to know programs.
272	Rep. Richard Devlin	House District 24. Explains the House side of the bill. Rep. King and Rep. Beyer helped amend HB 2431A. Says the amendments are reasonable and the Governor will sign this bill. Says environmental interests should take a close look at the amendments which allow local programs to exist. States the construction industry will be comfortable with the amendments.
364	Ledger	Discusses the penalty for failure to report. HB 2431A would drop penalties to \$1,000 per day. Says this bill does not specify what chemicals are covered. Says a list must be made public. Explains the cap which would become effective after four years in Eugene. Describes the State Fire Marshal's involvement. Public and private entities are treated alike under HB 2431A.
TAPE 69, A		
004	Ledger	Continues explaining the task force's recommendations. States the Governor's office agrees with this bill.
027	Chair Derfler	Asks for questions.
029	Jim Craven	American Electronics Association. Reiterates that HB 2431A with the 8 amendments allows the Eugene experiment to continue. This bill does not repeal Eugene's program. Supports the 8 amendments and urges passage.
049	Sen. Dukes	Asks if the fines stay the same.
052	Ledger	Says the Eugene penalties are a maximum of \$25,000 per day, now, and with this bill they would drop to a maximum of \$1,000 per day.

055	Sen. Dukes	Asks if everything stays the same.
056	Ledger	Explains which parts of the bill affect Eugene. Explains the municipal entity would enforce the program and Eugene would have to develop a program whereby any company to get an exemption on reasonable grounds.
073	Michael Carrigan	Oregon Peace Works. Opposes amendments. States that HB 2431A makes community toxic reporting expensive and complicated. Says he is speaking on behalf of Dr. Mary O'Brien who is on the toxics board and who wrote the Eugene ordinance. Presents (EXHIBIT A) .
119	Steve Johnson	City of Eugene, Toxic Board. Opposes HB 2431A. Says the law in Eugene maximizes penalties at \$25,000 per day. So far, only a \$250 fine has been the maximum. Presents (EXHIBIT B) .
217	Brendon Kane	Oregon State Public Interest Research Group (OSPIRG). Opposes HB 2431A. Says the process proposed by HB 2431A is expensive and time consuming and is an attempt to prevent cities from creating toxic reporting laws. Under HB 2431A, right to know laws would be virtually unworkable and this bill places a tremendous burden on small manufacturers. Explains how Eugene economically handles their toxic law. Presents (EXHIBIT C) .
274	Sen. Wilde	Comments on local control issues and asks how far local control should go. Asks if there should be local control on abortions.
300	Kane	Responds that abortion is a human rights issue, not a public health issue. Supports local control in regards to HB 2431A.
317	Sen. Wilde	States that the State Endangered Species Act and water quality controlled by the Department of Environmental Quality (DEQ) work well. Explains the state does not want the federal government involved. Says HB 2431A asks DEQ to come up with additional programs. Describes water standards set by the federal government.
330	Kane	Responds there is no general rule and each case is specific and sometimes local control demands higher quality than federal standards.
357	Chair Derfler	Asks for questions.
365	Sen. Susan Castillo	Senate District 20. Expresses concern with HB 2431A. Says this version has relieved some restrictions, but Eugene wants to keep their program without government intervention.
TAPE 68, B		
008	David Kelly	City Councilor, Eugene. Opposes HB 2431A. Says Eugene wants to maintain its

		program without government intervention and HB 2431A invades the basic right of self government. Emphasizes the Eugene Toxic Right to Know Charter is responsible to citizens. Presents (EXHIBIT D) .
057	Kelly	Continues arguing against HB 2431A. Stresses that the City of Eugene wants no intervention with their program. Emphasizes local self- government rights and the rights of voters.
061	Rep. Floyd Prozanski	House District 40. Opposes HB 2431A. Emphasizes that the toxic law was passed by the voters, not by the city council, and the toxic ordinance was a result of a grass roots movement. States some concerns with HB 2431A have included talk of establishing an interim task force and reminds the committee that has already been done without resulting in agreement.
	Staff	Submits (EXHIBIT E) .
096	Chair Derfler	Closes public hearing on HB 2431A. Reopens public hearing on HB 3605A.
<u>HB 3605A PUBLIC HEARING.</u>		
110	Jim Westwood	Attorney, Miller, Nash, et al. Supports HB 3605A. Explains the current Employer Liability Act is a strict liability act and an owner or general contractor is liable for unlimited damages if the employer contributes to damages to an employee. Says this discourages the incentive for safety precautions and if the common law doctrine of negligence were to operate, whereby a general contractor or owner is still liable to an injured worker for negligence, there would be more encouragement of workplace safety. Describes third party negligence.
170	Westwood	Says this bill is not retroactive and the concerns are overwrought. States there is extra incentive to provide a safe workplace.
182	Betsy Earls	Associated Oregon Industries (AOI). Supports HB 3605A. Says the bill offers a balanced solution to the problem.
190	Cindy Catto	Association of General Contractors (AGC). Explains the contractors' association supports HB 3605A. Assures that AGC does not question the right of injured workers to compensation. Wants the same standards as other tort liability standards. Presents (EXHIBIT F) .
263	Dave Anderson	President of Anderson Construction Company. Supports HB 3605A. Explains the role of a general contractor of a construction company and says under the new definition of employer, liability is placed on the employer. Describes personal experience with liability claims. Presents (EXHIBIT G) .
TAPE 69, B		

016	David Schaerer	Sedgwick of Oregon, insurance brokers. Supports HB 3605A. Explains how the number of liability carriers has dwindled due to the many claims of employer liability. Subcontractors may pay twice for the same claim: compensation and liability. States the purpose of workers compensation was to provide the remedy for on the job injuries. Urges passage of HB 3605A to limit the amount of awards in employer liability cases. Presents (EXHIBIT H) .
064	Chair Derfler	Says the committee will hear HB 3605A for 15 more minutes.
069	Daniel Dziuba	Represents injured workers. Opposes HB 3605A. States the continued vitality of the employer liability law is important to the citizens of the state. Presents (EXHIBIT I) .
140	Dziuba	Continues discussing general contractors and the employer liability law. Says the workers' compensation benefits are medical care, time loss and, if permanent disability, a small award.
220	Robert Neuberger	Introduces clients who are financial and social victims of fatal accidents to the families' breadwinners.
222	Dziuba	Introduces Jean and Jolene Dunn who lost their husband and father in an on the job accident in 1994. Introduces Millie and Emily Erickson whose husband and father died in 1994 in an industrial accident. Introduces Mary Howland whose husband was killed in an on the job accident. Explains these are the people the employer liability law protects.
258	Chair Derfler	Closes public hearing on HB 3605A. Opens public hearing on HB 2007A.
<u>HB 2007A PUBLIC HEARING</u>		
270	David Mitchell	Oregon Health Sciences University (OHSU). Supports HB 2007A. Describes needs for research by OHSU. Comments on results of previous research projects and the costs of these studies. Says HB 2007A can support these needed and expensive research programs.
367	Sen. Dukes	Asks if the \$10 million covers the researcher from Stanford.
370	Mitchell	Answers they would use \$1 million partnered with \$2 million from private sources for the research director. The \$10 million actually creates \$30 million to allow for recruiting qualified staff.
380	Chair Derfler	Closes public hearing on HB 2007A. Opens public hearing on HB 3605A.
<u>HB 3605A PUBLIC HEARING</u>		

390	Robert Neuberger	Attorney, Possi, Wilson, Atchison, et al. Opposes HB 3605A. Refutes some previous information on liability law cases. States that the number of personal injury and property damage cases have decreased year by year in Oregon and nationwide. Employer liability cases are a very small percentage of injury cases. There has been no expansion of the law.
TAPE 70, A		
007	Neuberger	Continues discussing providing safety for the public and workers. States Oregon is the only state that does not have pure parity law. Emphasizes that artificial caps for damages are unfair to families.
070	Bob Shiprack	Representing Oregon Building Construction Trades Council. Introduces Jeff Carlson. Opposes HB 3605A. States that there are employers here with problems that this bill does not help. Reads the Employer Liability Act. Emphasizes the responsibility of contractors.
120	Shiprack	Continues explaining the problems of contractors and lawsuits. Says HB 3605A would not stop lawsuits. Says exclusive remedy does not work. Does not feel that HB 3605A is going to help contractors. Says Oregon already emphasizes safety in the workplace.
200	Chair Derfler	Asks if the general contractor is the employer.
204	Shiprack	Says, no, the general contractor is in charge of scheduling and making sure the plans, subcontractors, materials, and safety precautions are in place.
210	Chair Derfler	Comments on finding fault with the employer. States some accidents are the fault of the employee.
212	Shiprack	States that mediating some of these disputes may be an alternative way of handling them.
277	Jeff Carlson	Ironworkers Local #29. Opposes HB 3605A. Contractors say safety is the number one priority on the job. Progress in safety has been made over the past 20 years. However, safety precautions can be lost in the fast pace of construction. Presents (EXHIBIT J) .
326	Arthur Kunis	Represents the AFL-CIO. Opposes HB 3605A. States the bill wrongly removes the employer liability law for workers. Presents (EXHIBIT K) .
	Staff	Submits (EXHIBIT L) .
364	Chair Derfler	States that some accidents are due to negligence of workers.

TAPE 71, A

009	Patrick O'Brien	West Linn. Represents OTKM Construction and AGC. Supports HB 3605A. Says a well run safe job site can have accidents. States the erroneous belief is that general contractors are guilty until proven innocent. Emphasizes the high price companies pay to defend themselves even when they are not guilty of negligence. Explains how there cannot be complete control over a job site. Presents (EXHIBIT M)
099	O'Brien	Summarizes needs for liability coverage and explains businesses are covered up to \$5 million in liability. Describes a personal experience where three months after an accident, a company was sued for \$15 million when coverage was for \$5 million. Current law makes general contractors responsible for all, when in reality there is not safety control on the job site. Relates personal experience of an iron worker's fall to death and response of workers to aid him.
139	Chair Derfler	Closes public hearing on HB 3605A. Opens public hearing on HB 2007A.
<u>HB 2007A PUBLIC HEARING</u>		
057	Mike McArthur	Sherman County Judge. Represents the Association of Oregon Counties (AOC). Supports HB 2007A. Supports creating a health security fund and expanding local public health and mental health services. Explains the need for funding of these services due to decreases in budgeting. Presents (EXHIBIT N) .
083	Maggie Moran	Local Health Administrator. Supports HB 2007A. Describes public health and mental health programs that need additional funding. Says the bill proposes an appropriate use of funding from tobacco settlements.
246	Jo Bell	Representing Oregon Association of Hospitals and Health Systems. Explains that HB 2007A would provide better health care for poor people. Supports HB 2007A. Presents (EXHIBIT O) .
271	Tom Novick	Oregon Health Leadership Against Tobacco. Advocates that more than 10 percent of the tobacco settlement go to the prevention of smoking. States more funds should be channeled toward prevention of smoking.
327	Anne Crawford	Program Director for Community Coalition, a drug prevention network in Salem-Keizer. States the purpose of the coalition is to eliminate substance abuse. Says the coalition is responsible for reduced illegal sale of tobacco to minors. First priority of litigation settlement funds should be to fund a prevention program. Asks for HB 2007A to give more to prevention. Presents (EXHIBIT P) .
370	Chair Derfler	Calls Rollie Wisbrock and others.
381	Dr. Jim Frasky	Dentist in Salem. Representing Oregon Dental Association. Describes dental

		care among children and the need for pediatric dentists. Expresses the need for \$2 million for a pediatric dentistry program at OHSU Dentistry School.
TAPE 70, B		
013	Jane Myers	Oregon Dental Association. Supports the dental request by Frasky. Presents (EXHIBIT Q) .
018	Rollie Wisbrock	Chief of Staff, Oregon Treasury. Says development of a health care security fund is not a problem. Says the Treasury Department can implement the fund more economically than described in HB 2007A. HB 2007A uses cash flow only, and there is the risk that the settlement payments could be reduced. Says the Treasury plan would bring in additional funds of \$36 million. Suggests protecting the requested fund of HB 2007A by investing in 9 percent returns. Presents (EXHIBIT R) .
099	Wisbrock	Describes a budget stabilization plan. Says an AA+ rating would save the state hundreds of million of dollars and suggests the tobacco settlement be used for a budget stabilization fund. States that the Treasury's plan would protect education, health care, and public safety from raids on the fund and from reductions in payments.
113	Chair Derfler	Asks for more questions.
114	Lee Hazelwood	Legislative reporter for Governor's Commission on Senior Services. Refers to the 21 amendments on HB 2007. Says the issue of elderly transportation should be a part of this bill. Explains that transportation of elderly people to health care facilities is a real need. Originally \$5 million per year was requested for this issue.
153	Sen. Wilde	Asks about percentages listed in EXHIBIT L .
	Staff	Submits (EXHIBIT S) .
159	Chair Derfler	Closes public hearing on HB 2007A. Adjourns meeting at 6:05 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,
Administrative Support Administrator

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Transcribed by,

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Nancy L. Massee

Administrative Support

EXHIBIT SUMMARY

A ñ HB 2431A, Written testimony, Michael Carrigan, 1 p

B ñ HB 2431A, Written testimony, SteveJohnson, 1 p

C ñ HB 2431A, Written testimony, Brendan Kane, 2 pp

D ñ HB 2431A, Written testimony, David Kelly, 2-pp

E ñ HB 2431A, -A8 Amendments, Staff, 4 pp

F ñ HB 3605A, Written testimony, Cindy Catto, 2 pp

G ñ HB 3605A, Written testimony, David Anderson, 1 p

H ñ HB 3605A, Written testimony, David Schaerer, 2 pp

I ñ HB 3605A, Written testimony, Daniel Dziuba, 4 pp

J ñ HB 3605A, Written testimony, Jeff Carlson, 1 p

K ñ HB 3605A, Written testimony, Arthur Kunis, 1 p

L ñ HB 3605A, Written testimony, Staff, 6 pp

M ñ HB 3605A, Written testimony, Patrick O'Brien, 3 pp

N ñ HB 2007A, Written testimony, Mike McArthur, 1 p

O ñ HB 2007A, Written testimony, Jo Bell, 2 pp

P ñ HB 2007A, Written testimony, Anne Crawford, 1 p

Q ñ HB 2007A, Written testimony, Jane Myers, 1 p

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