

**SENATE COMMITTEE ON RULES AND ELECTIONS**

**June 11, 1999 Hearing Room B**

**8:00 a.m. Tapes 92 ñ93**

**MEMBERS PRESENT: Sen. Charles Starr, Chair**

**Sen. Lee Beyer**

**Sen. Neil Bryant**

**Pres. Brady Adams**

**MEMBER EXCUSED: Sen. Randy Miller, Vice-Chair**

**Sen. Peter Courtney**

**STAFF PRESENT: Sandy Thiele-Cirka, Administrator**

**Marjorie Taylor, Administrator**

**Patrick Brennan, Administrative Support**

**MEASURES HEARD: HB 2757 Work Session**

**HJR 28-A Work Session**

**HB 3617-A Public Hearing and Work Session**

**HB 3606 Public Hearing and Work Session**

**HB 3211-A Public Hearing and Work Session**

**HB 2181-A Public Hearing and Work Session**

**HB 3371-A 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 92, A		

004	Chair Starr	Calls the meeting to order at 8:10 a.m. Opens a work session on HB 2757.
<b><u>HB 2757 WORK SESSION</u></b>		
005	Marjorie Taylor	Committee Administrator. Gives a brief description of the bill.
011	Sen. Bryant	<b>MOTION: Moves HB 2757 to the floor with a DO PASS recommendation.</b>
014		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Beyer, Courtney, Miller</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. STARR will lead discussion on the floor.</b>
017	Chair Starr	Closes the work session on HB 2757 and opens a work session on HJR 28-A.
<b><u>HJR 28-A WORK SESSION</u></b>		
020	Marjorie Taylor	Committee Administrator. Gives a brief description of the bill. Indicates that passage of the bill would send the issue to the ballot in the next primary or special election. Explains that a new county could be created only if it is less than 400 square miles in size and has a population greater than 100,000.
026	Sen. Bryant	<b>MOTION: Moves HJR 28-A be sent to the floor with a BE ADOPTED recommendation.</b>
028		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Beyer, Courtney, Miller</b>
	Chair Starr	<b>The motion CARRIES.</b>

		<b>SEN. STARR will lead discussion on the floor.</b>
033	Chair Starr	Closes the work session on HJR 28-A and opens a public hearing on HB 3617-A.
<b><u>HB 3617-A PUBLIC HEARING</u></b>		
036	Rep. Rob Patridge	House District 50. Testifies in support of HB 3617-A. Provides background on HB 3617-A.
045	Chair Starr	Closes the public hearing on HB 3617-A and opens a work session on HB 3617-A.
<b><u>HB 3617-A WORK SESSION</u></b>		
048	Pres. Adams	<b>MOTION: Moves HB 3617-A to the floor with a DO PASS recommendation.</b>
050		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Beyer, Courtney, Miller</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
062	Chair Starr	Closes the work session on HB 3617-A and opens a public hearing on HB 3606.
<b><u>HB 3606 PULBIC HEARING</u></b>		
073	Sen. Mae Yih	Senate District 19. Testifies in support of HB 3606 ( <b>EXHIBIT A</b> ). States that in 1998 the Environmental Protection Agency (EPA) promulgated the "cluster rules," requiring the installation of additional environmental control equipment at pulp mills throughout the U.S. Says the requirements came at a time of recession within the pulp industry and that many installations, such as Pope and Talbot's Halsey facility in her district, must now complete expensive upgrades by 2001. Explains the bill would allow companies such as Pope and Talbot to trade or sell pollution control tax credits to a third party, who would then own the facility through a sale-leaseback arrangement. Mentions that the Halsey facility employs over 200 people in well paying jobs that will be lost if the company cannot afford to maintain the operation. Outlines the negative impact to the community that would result from closure of the facility.

128	Jack McIsaac	Representative, Pope and Talbot. Testifies in support of HB 3606.
131	Mike Flannery	President and Chief Operating Officer, Pope and Talbot. Testifies in support of HB 3606 ( <b>EXHIBIT B</b> ). Offers an overview of Pope and Talbot. States that the bill allows pulp mills to use sale-leaseback to finance the installation of pollution control equipment. States that Pope and Talbot purchased the Halsey site in 1978 for \$40 million, and has since invested over \$40 million in pollution controls for the plant. Asserts that Pope and Talbot have been leaders in environmental protection in the pulp industry, citing the Willamette River study as an example. Describes the tax credit system that is currently used to finance environmental upgrades. Explains that the pulp industry is in recession and faces competition from foreign companies that pay no mind to environmental concerns.
175	Flannery	States that the bill will allow companies to meet the EPA 2001 deadline. Says the bill will allow companies to remain environmentally conscious and maintain current levels of employment.
210	Flannery	Discusses the importance of pollution control tax credits.
237	Hillary Abraham	Representative, Oregon Environmental Council (OEC). Testifies in opposition to HB 3606 ( <b>EXHIBIT C</b> ). Argues that pollution control tax credits are no longer necessary. Asserts that the subsidy fails to encourage companies to go above and beyond what is mandated. Notes that working Oregonians need a tax break more than large corporations.
277	Chair Starr	Acknowledges the concerns of OEC and states that the government has placed the burden of government regulation on businesses and should be accountable. Closes the public hearing on HB 3606 and opens a work session on HB 3606.
		Additional testimony was submitted to the committee for consideration by its members ( <b>EXHIBIT D</b> ).
<b><u>HB 3606 WORK SESSION</u></b>		
294	Sen. Adams	<b>MOTION: Moves HB 3606 to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.</b>
298		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Bryant, Courtney, Miller</b>
	Chair Starr	<b>The motion CARRIES.</b>

308	Chair Starr	Closes the work session on HB 3606 and opens a public hearing on HB 3211-A.
<b><u>HB 3211-A PUBLIC HEARING</u></b>		
309	Mike Saba	Planning Bureau, City of Portland. Testifies in support of HB 3211-A ( <b>EXHIBIT E</b> ).
310	Mark Landauer	Office of Government Relations, City of Portland. Testifies in support of HB 3211-A. Says the bill would provide tax breaks to landlords who provide low-income housing while contracting with a government entity. Mentions the bill has the support of the Oregon Rental Housing Association (ORHA), the City of Eugene ( <b>EXHIBIT F</b> ), and the League of Oregon Cities (LOC) ( <b>EXHIBIT G</b> ).
330	Chair Starr	Requests clarification that the bill merely allows local communities to adopt the program.
333	Landauer	Clarifies that the bill would not create such programs, but would rather allow communities the option.
336	Beyer	Submits that the bill is a minor modification to existing law.
343	Chair Starr	Closes the public hearing on HB 3211-A and opens a work session on HB 3211-A.
<b><u>HB 3211-A WORK SESSION</u></b>		
351	Sen. Beyer	<b>MOTION: Moves HB 3211-A to the floor with a DO PASS recommendation.</b>
355		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Bryant, Courtney, Miller</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. BEYER will lead discussion on the floor.</b>
361	Chair Starr	Closes the work session on HB 3211-A and opens a public hearing on HB 2181-A.

**HB 2181-A PUBLIC HEARING**

375	Joe Hobson	Concerned Citizen, Keizer, Oregon. Testifies in support of HB 2181-A ( <b>EXHIBIT H</b> ). Discusses the impact of SB 1010 (1997).
388	Rep. Richard Devlin	House District 24. Testifies in support of HB 2181-A. States the bill will extend the pollution tax credit to non-point sources, a practice that has been provided by the Department of Environmental Quality (DEQ) under administrative rule. Continues clarification.
428	Chair Starr	Notes support for extending benefits. Closes the public hearing on HB 2181-A and opens a work session on HB 2181-A.

**HB 2181-A WORK SESSION**

**TAPE 93, A**

011	Sen. Beyer	Questions the opposition.
014	Chair Starr	Notes that there is no present opposition.
<b>019</b>	<b>Sen. Beyer</b>	<b>MOTION: Moves HB 2181-A to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.</b>
<b>024</b>		<b>VOTE: 3-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Bryant, Courtney, Miller</b>
	<b>Chair Starr</b>	<b>The motion CARRIES.</b>
029	Chair Starr	Closes the work session on HB 2181-A and opens a public hearing on HB 3371-A.

**HB 3371-A PUBLIC HEARING**

035	Rep. Bill Witt	House District 7. Testifies in support of HB 3371-A. Explains the bill modifies Measure 44 by limiting the tax on cigars to 65 percent of the wholesale price, up to a maximum of \$.50 per cigar. Reviews the difficulties of local cigar shop owners due to the current tax structure. Notes the revenue loss to the state due to business being shifted to mail and internet vendors. Says the bill will protect
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		small local businesses and jobs.
078	Chair Starr	Clarifies that the bill maintains the 65 percent tax structure, while adding a cap of \$.50 per cigar.
086	Rep. Witt	Responds in agreement. Offers as an example a \$5 cigar, with the current tax of \$3.25. Explains that Oregonians avoid the tax by buying out-of-state.
100	Don McIntire	Concerned citizen. Testifies in support of HB 3371-A. Acknowledges that tobacco products are currently in disfavor within public opinion but adds that it is legal and enjoyed by many Oregonians. Discusses that the issue is not about smoking but economics. Estimates that passage of the bill could result in a revenue increase of \$10 million annually.
168	McIntire	Discusses the phenomenon of tax avoidance. Mentions that Measure 44 did not discuss cigars.
180	Tom Whittaker	Concerned citizen, City of Portland. Testifies in support of HB 3371-A. Says that the current tax structure is having an adverse effect on many Oregon small businesses. Asserts that HB 3371-A addresses the need to help local businesses remain competitive with mail and internet retailers. Indicates that cigar sales have increased for the sixth straight year nationwide, while the sale of cigars within Oregon has stagnated.
231	Sen. Beyer	Notes that Legislative Revenue has indicated there would need to be an additional 1.5 million cigars sold in Oregon to offset the reduction in taxes on cigars proposed by the bill. Asks if an increase in sales would occur.
245	Whittaker	Replies affirmatively. Mentions that mail order services began to compete with local shops in the late 1980s, but that significant losses in revenue began only after implementation of the high tax rates.
252	Sen. Beyer	Inquires as to the source of Mr. Whittaker's data.
253	Whittaker	Replies that his source is the National Institute Cigar Association, which compiles information from federal agencies.
268	Sen. Beyer	Asks if the information is obtained from retailers.
270	Whittaker	Replies that the distributors reporting to the institute indicate the number and value of the cigars sold. Mentions that 96 percent of all manufacturers report to the institute. Acknowledges the black market for cigars.
285	McIntire	Comments on cigar mailing lists, explaining the process by which an individual can purchase cigars from their own home. Disputes an article in <i>Willamette Week</i> , which called HB 3371-A a tax break for the wealthy.

316	Whittaker	Comments that it is a misconception that premium cigars are only enjoyed by the wealthy.
330	McIntire	Submits a letter ( <b>EXHIBIT I</b> ) for the record, written by a cigar consumer who supports passage of HB 3371-A.
340	Jim Paul	Owner, Paulis Trading Company. Testifies in support of HB 3371-A. Echoes the comments of Mr. McIntyre and Mr. Whittaker. Describes the drop in business at his stores following passage of Measure 44.
380	Jan Esler-Rowe	Cigar store owner, City of Portland. Testifies in support of HB 3371-A. States it is impossible to do business under Measure 44. Submits a fact sheet ( <b>EXHIBIT J</b> ) on behalf of Portland area tobacco retailers.
403	Steve Rowe	Cigar store owner, City of Portland. Testifies in support of HB 3371-A. States that his business cannot sell in volume as a result of the tax. Comments that a tax reduction is a matter of survival for Oregon tobacco retailers.
<b>TAPE 92, B</b>		
005	Douglas Berry	Concerned citizen, Portland, Oregon. Testifies in support of HB 3371-A ( <b>EXHIBIT K</b> ). Discusses that the tax has eliminated local cigar shopping, and has directed consumers to out-of-state retailers. Mentions that five cigar shops have closed as a result of the tax increase.
052	Berry	States that consumption of cigars is an adult pleasure and an adult choice. Offers a personal example of the cost of the tax to the consumer.
088	Rep. Tim Knopp	House District 54. Testifies in support of HB 3371-A. Says that cigar consumption in Oregon has increased, while Oregon cigar sales have decreased. Asserts that the bill would provide additional funds to the state. Argues the bill does not override Measure 44 but modifies it.
118	David Hodgert	Founding Partner, Specialty Cigars International. Testifies in support of the HB 3371-A. Indicates that his retail business in Bend is suffering as a result of Measure 44, while his wholesale division is expanding ( <b>EXHIBIT L</b> ). Attributes the shift to the cigar tax.
188	Hodgert	Implores the committee to allow local shops to maintain their local clientele by passing HB 3371-A.
202	John Paul	Concerned citizen, Portland Oregon. Testifies in support of HB 3371-A. States the tax has cost jobs in the stores owned by his family.
212	Tom Novick	Representative, Oregon Health Leadership Against Tobacco. Testifies in opposition to HB 3371-A. States that Measure 44 was designed to raise taxes on all tobacco products, including cigars. Mentions that Legislative Revenue has



		issued a statement saying the bill represents "an indeterminate tax loss," rather than a revenue increase. Indicates that no state has reduced existing tobacco taxes. Asserts there is a direct correlation between raising the price of tobacco and tobacco consumption.
244	Chair Starr	Asks if the change in purchase patterns from boxes to individual cigars represents a change in consumption or a shift in suppliers.
247	Novick	Responds that Legislative Revenue utilizes different sources of information than do cigar retailers. Discusses the differing effects the tax reduction would have on premium versus inexpensive cigars.
261	Larry Harvey	Representative, American Cancer Society. Testifies in opposition to HB 3371-A. Expresses empathy for small business owners, but disputes the logic of reducing the cigar tax to increase revenue.
320	Harvey	Submits that the bill represents a tax break for wealthy cigar consumers. Questions the assumption that passage of the bill could save jobs.
358	Starr	Says the evidence has been compelling that the issue is about small business economics and internet purchases. Declares the committee to be in recess at 9:20 a.m. until 3:00 p.m.
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360	Starr	Reconvenes the meeting at 3:01 p.m. and adjourns the committee at 3:03 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Sandy Thiele-Cirka,  
Administrative Support Administrator

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Reviewed By,

Marjorie Taylor,

Administrator

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**EXHIBIT SUMMARY**

**A ñ HB 3606, testimony, Sen. Mae Yih, 2 pp.**

**B ñ HB 3606, testimony, Mike Flannery, 14 pp.**

**C ñ HB 3606, testimony, Hillary Abraham, 2 pp.**

**D ñ HB 3606, testimony, Sue Danver, 2 pp.**

**E ñ HB 3211, testimony, Mike Saba, 2 pp.**

**F ñ HB 3211, testimony, James D. Torrey, 1 p.**

**G ñ HB 3211, testimony, League of Oregon Cities, 1 p.**

**H ñ HB 2181-A, testimony and informational materials, Joe Hobson, 24 pp.**

**I ñ HB 3371-A, testimony, Kim Jensen, 1 p.**

**J ñ HB 3371-A, testimony, Jan Esler-Rowe, 2 pp.**

**K ñ HB 3371-A, testimony and informational materials, Doug Berry, 30 pp.**

**L ñ HB 3371-A, chart, David Hodgert, 1 p.**