

SENATE COMMITTEE ON RULES AND ELECTIONS

June 24, 1999 Hearing Room B

1:00 p.m. Tapes 111 ñ 113

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Lee Beyer

Sen. Peter Courtney

Sen. Marylin Shannon

Sen. Veral Tarno

MEMBER EXCUSED:

STAFF PRESENT: Marjorie Taylor, Administrator

Carol Rives, Administrator

Jan McComb, Administrator

Sandy Thiele-Cirka, Administrator

Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURES HEARD: Executive Appointments

Oregon Health Sciences University Board of Directors

Board of Boiler Rules

HB 2199A Possible Reconsideration and Work Session

SB 1110 Possible Reconsideration and Work Session

HB 3172 Work Session

HB 2052 Public Hearing and Work Session

HB 2866A Public Hearing and Work Session

HB 3432 Public Hearing and Work Session

SB 679 Possible Reconsideration and Work Session

HB 2700 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 111, A		
003	Chair Starr	Opens meeting at 1:00 p.m. and opens work session on the Oregon Health Sciences University (OHSU) Board of Directors
<u>EXECUTIVE APPOINTMENT ñ OREGON HEALTH SCIENCES UNIVERSITY BOARD OF DIRECTORS</u>		
004		Staff presents (EXHIBIT A) .
006	Annette Matthews	Medical Student. Explains why she wants to be appointed to the Board and the experiences she brings to the Board. States she has been an active member of the OHSU Curriculum Committee.
019	Sen. Tarno	MOTION: Moves the appointment of Annette Matthews to the Oregon Health Sciences University Board of Directors to the floor with the recommendation that the appointment be confirmed.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Beyer
	Chair Starr	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
044	Chair Starr	Closes work session and opens work session on the Board of Boiler Rules.
<u>EXECUTIVE APPOINTMENT ñ BOARD OF BOILER RULES</u>		
049		Staff presents (EXHIBIT B) .

050	John Pyle	Insurance Inspector. Explains why he wants to be appointed to the Board and the experiences he brings to the Board. States he would like to represent his industry as a member of the Board.
068	Sen. Tarno	MOTION: Moves the appointment of John Pyle to the Board of Boiler Rules to the floor with the recommendation that the appointment be confirmed.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 n Beyer
	Chair Starr	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
079	Chair Starr	Closes work session and opens work session on HB 2199.
<u>HB 2199A WORK SESSION</u>		
082	Sen. Tarno	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering HB 2199A.
088	Sen. Courtney	Asks why the committee is reconsidering HB 2199A.
098	Chair Starr	Explains the rules cannot be suspended without four votes from the committee.
103	Sen. Courtney	Opposes the intent to raise taxes, and asks if taxes will remain as they are.
108	Sen. Shannon	States the taxes will not raise.
113	Sen. Courtney	Asks if the committee is on board to reconsider HB 2199A.
116	Chair Starr	States yes.
120	Sen. Shannon	Asks Sen. Courtney if his caucus took a vote regarding HB 2199A.
121	Sen. Courtney	States no.

123	Sen. Tarno	Withdraws motion to suspend rules.
126	Chair Starr	Closes work session and opens work session on SB 1110.
<u>SB 1110 WORK SESSION</u>		
134	Carol Rives	Committee Administrator. Explains SB 1110 requires state agencies to disclose their intent to acquire property to the owner before disclosure is made to any other person.
144	Chair Starr	Clarifies the ñ1 amendments requires notification to the property owner of an agencyís intent to purchase.
173	Sen. Courtney	Asks if the Oregon Department Of Transportation (ODOT) supports SB 1110.
177	Al Rightner	ODOT. States he has not seen the ñ1 amendments yet, but he agrees with mandating disclosure.
185	Sen. Courtney	Clarifies the ñ1 amendments are acceptable, even though he has not seen them.
186	Rightner	States yes.
190	Sen. Courtney	MOTION: Moves to ADOPT SB 1110-1 amendments dated 6/18/99.
		VOTE: 4-0 EXCUSED: 1 ñ Tarno
	Chair Starr	Hearing no objection, declares the motion CARRIED.
196	Sen. Courtney	MOTION: Moves SB 1110 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Tarno

	Chair Starr	<p>The motion CARRIES.</p> <p>SEN. FERRIOLI will lead discussion on the floor.</p>
208	Chair Starr	Closes work session and opens work session on HB 3172.
<u>HB 3172 WORK SESSION</u>		
211		Staff presents (EXHIBIT C) .
212	Marjorie Taylor	Committee Administrator. Explains HB 3172 ñ2 amendments clarify that system development charges (SDCs) may not be calculated based on the number of employees without regards to new construction, new development, or new use of an existing structure.
230	Chair Starr	States the ñ2 amendments were conceptual amendments, and the meeting was held over so the amendments could be drafted.
236	Taylor	States the ñ2 amendments are from Rep. Witt.
239	Sen. Courtney	Asks if there is feedback from the cities.
240	Taylor	States the committee has not spoken to the cities or counties.
245	Lynn McNamara	League of Oregon Cities. States her organization is neutral on HB 3172 with the ñ2 amendments.
256	Sen. Shannon	MOTION: Moves to ADOPT HB 3172-2 amendments dated 4/29/99.
		<p>VOTE: 4-0</p> <p>EXCUSED: 1 ñ Tarno</p>
	Chair Starr	Hearing no objection, declares the motion CARRIED.
260	Sen. Beyer	Asks "the methodology section, does this not get to the transportation fees, SDCs with the employees."
262	McNamara	States not to the best of her knowledge. States there are some cities that use a

		method of calculation by using the number of new employees with regard to transportation SDCs. States this is always in conjunction with new construction.
266	Sen. Shannon	MOTION: Moves HB 3172 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Tarno
	Chair Starr	The motion CARRIES. SEN. STARR will lead discussion on the floor.
304	Chair Starr	Closes work session and opens public hearing on HB 2052.
<u>HB 2052 PUBLIC HEARING</u>		
320	John Marshall	Oregon School Board Association (OSBA). States HB 2052 sets up a program so that school districts with financial problems can borrow money over the next four years to remedy the situation. States he would like to gather a work group of outsiders to analyze the Banks School District's debt restructure plan.
370	Marshall	States the school district has involved staff, parents, students, and the community to remedy financial problems. Urges support for HB 2052.
391	Chair Starr	States HB 2052 has a subsequent referral to Ways and Means. Asks if there is any opposition to HB 2052.
401	Marshall	States he is unaware of any opposition.
403	Sen. Shannon	Asks if Oregon can acquire the money needed to help the Banks district.
414	Marilyn McGlasson	Superintendent, Banks. Presents (EXHIBIT D) . States the Banks School District's attorney and insurance agent are examining avenues for recourse. States the Banks School District was not limited to the \$510,000 overstatement of revenue. States the auditors found that the district had actually finished the year with a deficit of \$906,000.
452	Sen. Shannon	Asks when the auditors found the problem.

460	McGlasson	States February, but the district is still in negotiations.
469	Chair Starr	Closes public hearing and opens work session on HB 2052.
<u>HB 2052 WORK SESSION</u>		
TAPE 112, A		
001	Sen. Beyer	MOTION: Moves to ADOPT HB 2052-3 amendments dated 6/23/99.
		VOTE: 3-0 EXCUSED: 2 - Courtney, Tarno
	Chair Starr	Hearing no objection, declares the motion CARRIED.
006	Sen. Beyer	MOTION: Moves HB 2052 to Ways and Means with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Courtney, Tarno
	Chair Starr	The motion CARRIES.
010	Chair Starr	Closes work session and opens public hearing on HB 2866A.
<u>HB 2866A PUBLIC HEARING</u>		
024	Stephen Kafoury	Professional Land Surveyors of Oregon (PLSO). Defers to Joel Smith.
027	Joel Smith	Chairman Elect, PLSO. States there is not a clear consensus between PLSO and the Oregon Association of County Engineers and Surveyors regarding HB 2866A. States the issue is whether the county surveyors or the professional land surveyors are in control. Urges the committee's support for HB 2866A.
098	Dan Linscheid	Yamhill County Surveyor. Presents (EXHIBIT E) . States HB 2866A erodes the

		ability of county surveyors to ensure that plats are correct mathematically, display certain minimum standards, and give constructive notice that the boundaries have been properly resolved. Supports the ñA4 amendments.
132	Chuck Pearson	Clackamas County Surveyor. Presents (EXHIBIT F with oversized map) . States PLSO is not willing to come to a compromise with the county surveyors.
182	Pearson	States there must be constructive notice to the property owner concerning plats and monuments. States problems should be resolved before approving plats, and HB 2866A would eliminate that ability.
232	Pearson	States the ñA4 amendments would allow a surveyor, after setting a monument, an extension from 45 days to 180 days to submit a map for public record. States there is a dispute resolution process to solve problems among the county and private surveyors.
292	Linscheid	States the county clerks would like a conceptual amendment to the ñA4 amendments, page 3, line 7, to retain the words "authorize the setting of" and delete the word "set."
303	Rep. Susan Morgan	House District 46. States she has not seen the ñA4 or the ñA7 amendments. States that under current statutes, a surveyor is required to set all of the boundary markers on a subdivision plat before the plat can be recorded and the subdivision finalized.
353	Rep. Morgan	States HB 2866A allows the licensed surveyors the option of only placing permanent markers where the boundaries change direction.
403	Rep. Morgan	Discusses the comprehensive checklist surveyors must complete when establishing monument boundaries. States her issue is allowing county surveyors to exceed what they are statutorily authorized to do.
451	Rep. Al King	House District 44. Supports HB 2866A.
TAPE 111, B		
005	Tom Hamilton	Lincoln County Surveyor. States there are differences between county and private surveyors. Opposes HB 2866A. Opposes the extension of 180 days to set a plat, because it should only take up to 45 days. States the public has a right to know immediately when a plat is set.
054	Sen. Courtney	Asks to clarify if amendments to HB 2866A would resolve differences among private and county surveyors.
057	Hamilton	States he has not read all of the amendments offered, but hopes there would be a way to resolve the issues before passing HB 2866A out of committee.

060	Sen. Courtney	Asks if he supports HB 2866A.
062	Hamilton	Clarifies he opposes HB 2866A without amendments.
070	Charles Stern	Yamhill County Clerk. Proposes the ñA7 amendments. Discusses fees concerning assessment taxation. States the estimated revenue raised from the fee is \$1.5 million for the surveyors who establish land corners.
095	Chair Starr	Asks if the proposal is for a \$10 fee.
096	Stern	States no. States a fee can be imposed that would not exceed \$10. States each fee differs according to the county, and Multnomah County's fee is \$3.
113	Jim Markee	Oregon Collectors Association, Oregon Mortgage Bankers Association. States they are neutral concerning HB 2866A but oppose the ñA7 amendments because there is no need to raise every county's fees to \$10.
163	Markee	Discusses issues with lien filing, recording, and releasing fees. Believes it is wrong to raise taxes without the people knowing it.
171	Sen. Bill Fisher	Senate District 23. States the Douglas County Surveyor supports HB 2866A without any amendments.
221	Sen. Fisher	Asks the committee to pass HB 2866A as it is.
232	Sen. Courtney	Asks if the surveyor has read the amendments.
233	Sen. Fisher	States the surveyor has read them and does not support them.
246	Brian Weigart	Private Land Surveyor. Supports HB 2866A with the ñA4 amendments. States that if only the exterior angle points of the corners are monumented there will not be the ability to see any encroachments.
271	Chair Starr	Asks, if the angle points have been surveyed, why is there a problem with encroachments.
280	Weigart	States that fence lines from a developed property may fall within the boundary of the undeveloped property.
282	Chair Starr	Asks if that is easily observable if there is a straight line.
283	Weigart	Explains that an area with trees and brush and monuments that span 1,000 feet apart is not easily observable. States that county surveyors are readily available

		to talk to consumers when problems arise.
318	Jack Burrell	Private Land Surveyor. Opposes HB 2866A. States the private and county surveyors are simply competing for control.
368	Burrell	States the industry must come to an agreement. Believes HB 2866A does not represent good legislation.
418	Burrell	Asks the committee to oppose HB 2866A.
430	Bob Nettleton	Marion County Surveyor. Presents (EXHIBIT G) . Opposes HB 2866A but supports both the ñA4 and ñA7 amendments.
TAPE 112, B		
001	Nettleton	Discusses EXHIBIT G maps to show how the current law works.
013	Chair Starr	Discusses EXHIBIT G stating that if the angle of corners is identified there would not be a way to know if there is encroachment on the fence. States the fence appears to run the full length.
017	Nettleton	States it does not run through lots 8, 9, or 10. States there were many trees in that area obscuring the view.
022	Robert Hovden	Multnomah County Surveyor. Presents (EXHIBIT H) . Supports HB 2866A with the ñA4 amendments.
050	Ray Wilson	Private Land Surveyor. Supports HB 2866A with the ñA4 amendments.
094	Bob Ezell	Lane County Surveyor. Presents (EXHIBIT I) . Opposes HB 2866A as written. Discusses the need for the 180 day extension and disclosure.
144	Ezell	States in Lane County, in the last 10 years, there have been 35 subdivision plats that have never been completed, even though they are bonded.
194	Ezell	Believes HB 2866A sets limitations on county surveyors. States the county surveyor must maintain discretionary judgement when ensuring established boundaries.
220	Ken Bauer	Washington County Surveyor. Presents (EXHIBIT J) . Supports HB 2866A with the ñA4 amendments.
257	John Nemecek	Polk County Surveyor. Presents (EXHIBIT K) . States there is disagreement

		among private and county surveyors of who has what authority. States boundary resolutions are decided by county surveyors, and the private surveyors take offense to the authority given them. Suggest starting from scratch next session.
290	Chair Starr	States there is not another legislative session for two years. Asks if passing HB 2866A would help both private and county surveyors to find a solution or compromise to the issues.
304	Nemecek	States both sides need to come together and that is not being done.
310	Bauer	States there was not enough time this session.
314	Chair Starr	Asks if HB 2866A is passed as is, will that help or hinder the process.
324	Nemecek	Believes it will exasperate the problem.
325	Bauer	Agrees.
332	Doug Barber	Peace Health Medical Group. Opposes the ñA7 amendments. States that Sacred Hearts Hospital files about 1,000 medical service liens every year to collect payment from insurance companies after traffic accidents. States they pay \$5 per lien (with an \$11 surcharge) and do not want that fee raised to \$10.
384	Smith	States the resolution process has not previously worked because there is no legislation mandated. Urges the committee to pass HB 2866A.
427	Kafoury	Urges the committee to pass HB 2866A without amendments and make any changes during the next legislative session.
487		Staff presents (EXHIBIT L) .
488	Chair Starr	Closes public hearing.
TAPE 113, A		
001	Chair Starr	Opens public hearing on HB 3432.
<u>HB 3432 PUBLIC HEARING</u>		
003	Rep. Max Williams	House District 9. States HB 3432 would bring legislative compliance with the Attorney Generalís formal opinion regarding the Government Standards and Practices Commission (GSPC) being constitutionally prohibited from making a determination about a Legislatorís conflict of interest disclosure.

053	Rep. Williams	States an individual can make a complaint to GSPC, which determines if the complaint is valid. States if the complaint is a conflict of interest, GSPC must dismiss the complaint and the individual must lodge the complaint with the legislative body who will manage the process.
055	Sen. Shannon	Asks what happens to a legislator's case once the legislative body determines a conflict of interest was not disclosed.
058	Rep. Williams	States the House is working to adopt rules to set up a panel to receive and investigate complaints. States it is not unlike the panel for sexual harassment complaints on the House side.
066	Sen. Shannon	Asks why there is a need for the Ethics Commission.
067	Rep. Williams	States a bribery claim against a member could be handled by the Government Standards and Practices Commission.
080	Sen. Tarno	States on page 1, line 20, the language does not indicate "at the time of the alleged abuse." Asks if it was by left out by design.
085	Rep. Williams	States no. Believes that a speech made by a legislator would be subject to the constitutional provision of protected speech at the time spoken.
095	Sen. Tarno	States it is conceivable that the member would resign to avoid embarrassment of investigation.
099	Rep. Williams	Believes the legislative body would determine the propriety of a public sanction even if the member resigned. States the subject was not discussed in the House.
106	Chair Starr	States it passed 58-1 in the House.
109	Rep. Williams	States the statutes should comply with the Attorney General's opinion.
127	Chair Starr	Closes public hearing and opens work session on HB 3432.
<u>HB 3432 WORK SESSION</u>		
129	Sen. Tarno	MOTION: Moves HB 3432 to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 2 - Courtney, Beyer
	Chair Starr	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
130	Chair Starr	Closes work session and opens work session on HB 2866A.
<u>HB 2866A WORK SESSION</u>		
140	Sen. Shannon	MOTION: Moves HB 2866A to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Courtney, Beyer
	Chair Starr	The motion CARRIES. SEN. SHANNON will lead discussion on the floor.
151	Chair Starr	Closes work session and opens public hearing on SB 679.
<u>SB 679 PUBLIC HEARING</u>		
164	Grover Simmons	Adult Foster Homes. Presents (EXHIBIT M) . States a person can file a complaint with the Senior and Disabled Services Division against an adult foster home and, if the complaint is shown to be untrue, there is no way to hold the person who filed the complaint accountable.
176	Chair Starr	Asks if the issue is addressed in SB 679 with the ñ2 amendments.
178	Simmons	States he is speaking to the ñ2 amendments. States the ñ2 amendments will hold those who file false complaints to civil and/or criminal liability.
214	David Nebel	Oregon Law Center. Opposes the ñ2 amendments because current law addresses

		the issue of accountability toward false complaints. Explains that immunity is given to people who make complaints in good faith.
233	Chair Starr	Asks "if that is so, why is saying so important to you."
235	Nebel	States the ñ2 amendments is not the mechanism to hold people accountable. States it would need to be proven that the complaint was not made in good faith and that it was knowingly false. States SB 679 could be misused by providers who want to discourage people from making complaints.
259	Sen. Tarno	States the ñ2 amendments specify that a person who knowingly and intentionally submits a false complaint does not have immunity.
277	Nebel	Believes the ñ2 amendments language is confusing and does not add to the law.
298	Sen. Shannon	States the language makes sense and is needed. Supports SB 679.
311	Jacqueline Zimmer	Agency on Aging and Disabilities. Believes that complaints should be addressed in adult care programs. States the providers want to know when things do not appear appropriate. Believes that because of the language of SB 679 providers will use the threat of lawsuits to keep people from making formal complaints.
355	Sen. Shannon	States that is not the case. States Ms. Zimmer needs to produce actual cases to prove her point.
363	Zimmer	Asks if she should report what she perceives as misconduct knowing that she may be sued in the process.
367	Sen. Shannon	States SB 679 specifies that she would be held accountable if she knowingly filed a false complaint.
369	Zimmer	Believes SB 679 will keep some people from reporting misconduct.
377	Sen. Shannon	States the person making the complaint cannot intentionally lie.
380	Zimmer	States the language is intimidating and will prevent people from making complaints.
385	Chair Starr	Closes public hearing and opens work session on SB 679.
<u>SB 679 WORK SESSION</u>		
391	Sen. Shannon	MOTION: Moves to ADOPT SB 679-2 amendments dated

		6/15/99.
		VOTE: 3-0 EXCUSED: 2 - Courtney, Beyer
	Chair Starr	Hearing no objection, declares the motion CARRIED.
393	Sen. Shannon	MOTION: Moves SB 679 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Courtney, Beyer
	Chair Starr	The motion CARRIES. SEN. SHANNON will lead discussion on the floor.
406	Chair Starr	Closes work session and opens work session on HB 2700.
<u>HB 2700 WORK SESSION</u>		
413		Staff presents (EXHIBIT N).
400	Sen. Shannon	MOTION: Moves HB 2700 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Public Affairs.
		VOTE: 3-0 EXCUSED: 2 - Courtney, Beyer
	Chair Starr	Hearing no objection, declares the motion CARRIED.
430	Chair Starr	Closes work session on HB 2700 and adjourns meeting at 3:40 p.m.

Submitted By, Reviewed By,

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

Reviewed by, Reviewed by,

Sandy Thiele-Cirka, Marjorie Taylor,
Administrator Administrator

Reviewed by,

Jan McComb,
Administrator

EXHIBIT SUMMARY

A ñ Executive Appointments, interest form, staff, 7 pp

B ñ Executive Appointments, interest form, staff, 5 pp

C ñ HB 3172, written testimony, staff, 1 p

D ñ HB 2052, written testimony, Marilyn McGlasson, 4 pp

E ñ HB 2866A, written testimony, Dan Linscheid, 2 pp

F ñ HB 2866A, written testimony, oversized map, Charles Pearson, 2 pp

G ñ HB 2866A, written testimony and maps, Bob Nettleton, 4 pp

H ñ HB 2866A, written testimony, Robert Hovden, 2 pp

I ñ HB 2866A, written testimony, Bob Ezell, 3 pp

J ñ HB 2866A, written testimony, Ken Bauer, 2 pp

K ñ HB 2866A, written testimony, John Nemecek, 2 pp

L ñ HB 2866A, written testimony, staff, 1 p

M ñ SB 679, written testimony, Grover Simmons, 1 p

N ñ HB 2700, written testimony, staff, 1 p