

HOUSE COMMITTEE ON COMMERCE

April 22, 1997 Hearing Room A

7:00 P.M. Tapes 21 - 24

MEMBERS PRESENT:

Rep. Eldon Johnson, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Ron Adams

Rep. Roger Beyer

Rep. Richard Devlin

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Jackie Taylor

Rep. Tom Whelan

STAFF PRESENT:

Julie Neburka, Administrator

Coben Tistadt, Administrative Support

MEASURE/ISSUES HEARD:

HB 3719 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 21, A		
005	Chair Johnson	Opens public hearing on HB 3719. Talks of protocol governing the public's right to be heard and the requirement that the meeting proceed without disturbances.

**HB 3719 -
PUBLIC
HEARING**

029	Rep. Chuck Carpenter	House District #7. Submits written testimony (EXHIBIT A). Supports the bill. Talks about the effects of the bill. Begins video presentation.
043		Video presentation.
093		Video presentation.
096	Sen. Avel Gordly	Senate District #10. Supports the bill. Introduces former state affirmative action director and the present state affirmative action director. States that no one should be discriminated against on the basis of sexual orientation. Recalls the struggle for civil rights beginning in 1919.
136	Rep. Charles Starr	House District #3. Submits written testimony (EXHIBIT B). Opposes the bill. States that the bill is "dangerous and unnecessary," noting that it allows intrusion into what designates a church's "activities." Notes that legitimizing homosexual behavior is unprecedented in the state. Mentions "rainbow curriculum." States that the income of the homosexual community is relatively high.
186	Rep. Starr	States that the legislation is aimed at small business, "the backbone of the state." States that civil rights have never been based on behavior.
199	Rep. Hill	Hypothesizes if someone lost a job because of his/her sexual orientation if that should be justified.
205	Rep. Starr	Answers that it should be justified no more than someone being fired for being "left-handed."
206	Rep. Hill	Asks about adultery.
214	Rep. Starr	Answers that it would be justified if that was the desire of the employer.
217	Rep. Ben Westlund	House District #55. States that the bill is a "correct interpretation of anti-discrimination law." Refers to the Magna Carta, and the increasingly broad rights of individuals.
246	Gail Shibley	Former House Representative. Supports the bill. Notes that she was the first openly gay member of the Oregon legislature in 1991. Mentions a bill she presented "almost identical" to the present bill. Notes positive feedback from the Association of Oregon Industries.
296	Shibley	States that she doesn't want to hurt small businesses. Notes the argument that "if it is good policy it should apply to everyone."
323	Rep. Beyer	Asks if AOI said it was good policy.
326	Shibley	Answers that she never asked AOI for a formal stance. Recalls that AOI felt it was good policy.
339	Rep. Beyer	Asks if they testified to that.

342	Shibley	Answers again that no formal communication was requested. Notes that in '93 there was no public hearing.
354	Rep. Adams	Expresses his pleasure that they finally get to hear the bill.
363	Shibley	Concurs.
367	Rep. Hill	Asks if they will hear from AOI.
368	Chair Johnson	Answers that he has talked to them but that he is unsure if they have signed up.
TAPE 22, A		
007	Jack Roberts	Bureau of Labor and Industry. Submits table (EXHIBIT C). Supports the bill. Talks of similar legislation presented during previous sessions. Notes the goal that the legislation wouldn't result in more litigation. Talks about parental leave. Notes that most people have misconceptions about applicable laws. Notes that discrimination occurs.
057	Roberts	Continues testimony on discrimination, noting that the issue exceeds the number of complaints. States that the legislation doesn't produce new "protected classes." Discusses the requirements necessary to qualify as a protected class. Discusses "diversity interest" and states that this legislation deals with "privacy interests." Refers to language in section 5, which allows churches to discriminate if such discrimination is based on religious beliefs.
107	Roberts	Discusses what constitutes a "bona fide religion" and what constitutes a business activity. Concludes that the bill doesn't validate homosexuality, but that it recognizes "civic standards of non-discrimination."
143	Rep. Adams	Asks which statute is referred to in section 5.
149	Roberts	Answers ORS 659.020.
152	Rep. Adams	Asks if the bill will have much impact on the bureau's number of discrimination cases.
160	Roberts	Refers to EXHIBIT C. Answers that it will have little impact.
167	Rep. Adams	Asks about the argument that the bill is one-sided and that it creates a protected class.
172.	Roberts	Discusses the definition of a protected classes under federal law.
184	Rep. Hill	Asks if the bureau currently tracks sexual orientation claims.
189	Roberts	Answers that outside of three cities which have applicable ordinances that they don't track those claims.
192	Rep. Hill	Asks if there is widespread knowledge that discrimination based on sexual orientation is permitted under current law.
198	Roberts	Answers that there is not widespread knowledge. Mentions that BOLI does receive calls concerning this issue.
210	Rep. Eighmey	Refers to page 5, lines 34-35 of the bill and its requiring "substantial evidence." Asks if that requirement is unusual.

228	Roberts	Answers that discrimination claims don't always come to them. Reiterates that it wouldn't be a burden for his department. Supports the requirement that claims go through his department.
256	Rep. George Eighmey	House District #14. Supports the bill. States that he is openly gay. Notes that the understanding that people can be fired because of their sexual orientation prevents homosexuals from "coming out."
306	Rep. Eighmey	Relates personal experiences with discrimination.
361	Sen. Susan Castillo	Senate District #20. Notes that discrimination currently exists. States that employment should be based on job performance.
TAPE 21, B		
019	Bruce Sampson	Northwest Natural Gas. Supports the bill. Notes that most people in the state believe it is illegal to discriminate. Relates the message of his employers that employment be based on job performance.
052	Cheryl Perrin	Fred Meyer. Supports the bill. States that it is shocking the legislation is required. Notes that 80% of the populace believe such discrimination is illegal. Mentions Fred Meyer's policy, noting that they have never had a claim made against them.
072	Robert Hall	Portland General Electric. Supports the bill.
088	Rep. Adams	Asks about the concern that hiring homosexuals might drive away customers.
098	Perrin	Replies that that doesn't occur at Fred Meyer.
104	Rep. Carter	Asks about "just cause" and whether that is a viable option for the workplace.
115	Roberts	Answers that he can't imagine a case where there would be "just cause" to discriminate, because "just cause" has to do with job performance.
128	Rep. Carpenter	Asks if including a "just cause" provision in the bill would be less intrusive into the business community.
139	Roberts	States that eliminating discrimination in general except in cases where there is "just cause" would be a mistake. States that people are free to make decisions and that making courts and administrative entities the supervisor of all promotions and job hirings would be unworkable. Prefers "pro-choice" approach regarding employment and employing.
171	Sen. Kate Brown	Senate District #7. Relates personal experiences of "terror" over losing her job due to her sexual orientation.
196	Rep. Taylor	Asks about the argument that homosexuals have a higher than average income.
202	Sen. Brown	Talks of the terror of losing one's livelihood.
224	Joshua Burley	Resident of Cornelius. Submits written testimony (EXHIBIT D). Opposes the bill. Notes the bill's violation of "scriptural

		mandates." Gives an example of a business owner who tries to hire individuals who share his/her standards. Talks about the "moral fabric" of the state. States that the legislation condones homosexuality as a lifestyle.
300	Rep. Carpenter	Asks if a homosexual business owner should be able to fire an individual because he/she is a heterosexual.
301	Burley	Answers yes if that is his/her conviction.
309	Rep. Carpenter	Asks if an owner should be able to fire on employee whose religion is different.
311	Burley	Answers that under current law that is prohibited.
315	Rev. Constance Hammond	Supports the bill. Supports bringing discrimination "to light." Notes problems of discrimination with ballot measures 9 and 13. States that a Christian who speaks against any one group of individuals doesn't understand Christianity.
360	Rep. Carpenter	Relates his personal experience in coming out.
377	Phillip Ramsdell	Oregon Citizen's Alliance. Submits written testimony and written materials (EXHIBIT E). Discusses the average level of income in the homosexual community, noting its relative prosperity. Adds that telephone and other companies target homosexual customers because of this prosperity.
TAPE 22, B		
022	Kathy Phillips	Oregon Citizen's Alliance. States that the bill does create a new "class." States that this "class" is generally considered to be immoral. States that the bill is an effort to force the residents of Oregon to accept gays' lifestyle. Asks the committee to table the bill.
055	Don Hamon	President of Royal Blend Coffee. Supports the bill. States that this issue is about a right to a life without discrimination. Notes current levels of fear because of the threat of losing jobs. Talks about the public's misperception of current law.
090	Rep. Hill	Asks if his business belongs to any associations.
091	Hamon	Mentions associations and accolades.
107	Bill Hayden	Parents and Friends of Lesbians and Gays (PFLAG). Submits written testimony (EXHIBIT F). Supports the bill. Reads written testimony.
153	Candace Steele	Supports the bill. Submits and reads written testimony (EXHIBIT G).
203	Steele	Continues testimony.
224	Theresa Gevurtz	Resident of Portland. Submits written testimony and written materials (EXHIBIT H). Cites personal experience of discrimination.
274	Gevurtz	

		Continues testimony. States that after she lost her job because of her homosexuality she hasn't found a comparable position. Mentions personal faith in the religion of Judaism.
321	Phil Matthews	Cites personal experience of discrimination. Notes his excellent job performance record. Questions the reasoning for allowing discrimination on the basis of sexual orientation.
TAPE 23, A		
003	Jean Harris	Basic Rights Oregon. Submits written testimony (EXHIBIT I). States that the private sector is "way ahead" in this area. Lists companies protecting gays and lesbians in the workplace. Request the bill's passage.
033	Marcy Westerling	Resident of Scappoose. Submits written testimony relating personal experience of discrimination (EXHIBIT J). Mentions her project to build inclusive communities in rural Oregon during the period of Ballot Measures 9 and 13. Mentions the unique implications of being fired in a rural area.
076	Mike Edera	Resident of Banks. Submits and presents written testimony (EXHIBIT K). Talks of homophobia resulting in a lack of productivity. States that he has lost a job for standing up for the rights of homosexuals. States that the bill is long overdue. Urges passage.
109	Nancy Federici	Talks of her deceased husband's work and that she will continue his work. Talks of a shoe business which was left to her and of her hiring practices. States that the bill must include the language "sexual orientation."
143	Jonathon Garber	Resident of Philomath. Submits written testimony (EXHIBIT L). Opposes the bill. Notes that the bill adds "sexual orientation" into a specially protected class normally reserved for race which is morally neutral. Discusses the costs of compliance. Discusses the threat to religious freedom. Asks who decided whether a business bears a relationship to a church's activities. Notes that homosexuals have higher incomes and are better educated.
193	Leah Garber	Resident of Philomath. Opposes the bill. States that the words addressing religious exemptions are "slippery." States that the bill infringes on the right of free religion. Asks what constitutes an "emergency" as stated in the bill. Discusses disease implications. Discusses a lack of genetic evidence that homosexuality is natural. Talks of homosexuality in prisons due to environment.
243	Olga Garber	Resident of Philomath. Submits written testimony (EXHIBIT M). Opposes the bill. Mentions Supreme Court decisions concerning sodomy. Discusses discrimination against short people.
285	Rep. Wooten	Refers to the Mr. Garber's testimony (EXHIBIT L). Asks how "proclivities that express themselves in practice" relates to the work place.

294	Garber	Answers that homosexuality isn't "readily observable" as are other classifications based on unchangeable physical traits. Opposes extending those categories to include a chosen behavior.
318	Rep. Wooten	Asks how employers would identify those behaviors.
322	Garber	States that if he was an employer he wouldn't actively seek out that information, but that he wouldn't employ someone who made an issue of it.
359	Steve Walker	Resident of Dallas. Submits written testimony (EXHIBIT N). Delineates the differences between rights and freedoms. Quotes the Bible.
TAPE 24, A		
031	Walker	Continues testimony.
040	Jeff Grossman	Resident of Hillsboro. Submits written testimony (EXHIBIT O). Talks of burdens created by the bill and questions concerning the bill's constitutionality. Cites a constant search for victimhood in the United States. Cites personal experience of discrimination due to his weight, his baldness, and his being left-handed. States that section 5 is blatantly unconstitutional.
090	Stefan Stent	Opposes the bill. Discusses conversations with the mayor of Portland. Opposes open acceptance of the homosexual lifestyle. States that homosexuality is not a civil rights issue. Discusses genetic link, as with alcoholism.
140	Stent	Continues testimony. Discusses societal effects.
182	Chair Johnson	Asks the witness to be brief.
184	Rep. Beyer	Objects to the proceedings because the proponents received more time than the opponents.
187	Chair Johnson	Responds that he has sought a fair hearing, but that there are time constraints.
192	Stent	Talks of strong families and declining moral values. States that he is entitled as an employer to develop his own beliefs on these issues.
242	Stent	Continues testimony.
248	Charles Hinkle	Resident of Portland. Submits written testimony (EXHIBIT P). Mentions a case involving sexual harassment claims due the perception that an individual was gay when in fact he was not.
298	Hinkle	Discusses the constitutionality of the issue of determining a core religious belief. Questions what constitutes a "bona fide" religion.
330	Rep. Eighmey	Asks about eliminating subsections 1, 2, and 3 of section 5.
342	Hinkle	Opposes eliminating subsection 3, stating that a hospital affiliated with a church could refuse to hire a janitor due to his/her sexual orientation.

361	Rep. Eighmey	Asks if subsection 1 is necessary.
368	Hinkle	Answers that line 44 could be eliminated.
376	Jerry Keene	Western Regional Director of the Log Cabin Republicans. Submits written testimony (EXHIBIT Q).
TAPE 23, B		
064	Cary Renfro	Cites personal experience with discrimination due to sexual orientation.
079	Chair Johnson	Closes public hearing on HB 3719, opens work session on HB 3719.
<u>HB 3719 - WORK SESSION</u>		
080	Chair Johnson	States that on page 5, lines 33 and 34 it should read "commissioner" rather than "commission."
096	Rep. Wooten	MOTION: Moves HB 3719 to the floor with a DO PASS recommendation.
099	Rep. Beyer	States that he was before Rep. Wooten in order.
100	Chair Johnson	Apologizes. Asks Rep. Beyer to procede.
105	Rep. Beyer	MOTION: Moves to TABLE HB 3719.
106	Rep. Beyer	VOTE: 1-8 AYE: 1 - Beyer NAY: 8 - Adams, Devlin, Hill, Montgomery, Taylor, Whelan, Wooten, Johnson
	Chair	The motion FAILS.
112	Rep. Adams	Mentions proposed amendments submitted by the Oregon Catholic Conference (EXHIBIT R) and asks for clarification of the impact on the bill.
122	Hinkle	States that the amendments allow discrimination in hospitals, schools, and church camps in jobs which are not "core religious functions."
140	Chair Johnson	Observes that the bill may be amended in the Senate.
146	Keene	States that the amendments allow churches to discriminate against homosexuals more than is currently allowed, which is antithetical to the bill's intent.
151	Rep. Beyer	Objects. States that the proceedings have been too hasty. Notes that people who wanted to testify haven't been heard.

162	Chair Johnson	Asks those who haven't testified to present their written testimony.
173	Rep. Carpenter	Notes that the Oregon Public Employees Union haven't been allowed to testify.
183	Rep. Eighmey	States that further testimony would have been repetitive. Appreciates the chair's fairness. Notes the long legislative history on this issue.
196	Rep. Montgomery	States that he is ready to vote.
		VOTE: 8-1 AYE: 8 - Adams, Devlin, Hill, Montgomery, Taylor, Whelan, Wooten, Johnson NAY: 1 - Beyer
	Chair	The motion CARRIES.
208	Chair Johnson	Adjourns the meeting at 9:54 PM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3719, written testimony, Rep. Chuck Carpenter, 1 p.

B - HB 3719, written testimony, Rep. Charles Starr, 2 pp.

C - HB 3719, table, Jack Roberts, 1 p.

D - HB 3719, written testimony, Josh Burley, 1 p.

E - HB 3719, written testimony, Phillip Ramsdell, 14 pp.

F - HB 3719, written testimony, Bill Hayden, 2 pp.

G - HB 3719, written testimony, Candace Steele, 3 pp.

H - HB 3719, written testimony, Theresa Gevurtz, 8 pp.

I - HB 3719, written materials, Jean Harris, 5 pp.

J - HB 3719, written testimony, Marcy Westerling, 2 pp.

K - HB 3719, written testimony, Mike Edera, 1 p.

L - HB 3719, written testimony, Jon Garber, 1 p.

M - HB 3719, written testimony, Olga Garber, 3 pp.

N - HB 3719, written testimony, Steve Walker, 4 pp.

O - HB 3719, written testimony, Jeff Grossman, 3 pp.

P - HB 3719, written testimony, Charles Hinkle, 3 pp.

Q - HB 3719, written testimony, Jerry Keene, 1 p.

R - HB 3719, written testimony, Oregon Catholic Conference, 7 pp.