

HOUSE JUDICIARY  
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room  
Tapes - 79

MEMBERS PRESENT:

Rep. Veral Tarno, Chair  
Rep. Floyd Prozanski, Vice-Chair  
Rep. Peter Courtney  
Rep. Jerry Grisham  
Rep. Leslie Lewis

STAFF PRESENT:

Holly Robinson, Committee Counsel  
Janet Ellingsworth, Committee Assistant

MEASURES HEARD:

SB 320 A Work Session  
SB 367 A Work Session  
SB 787 A Public Hearing and Work Session  
SB 193 A Work Session  
SB 641 A Work Session  
SB 1052 A Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , A

004 CHAIR TARNO: Convenes meeting at 8:30 A.M.

OPENS the WORK SESSION on SB 367 A

Witnesses:

SENATOR MAE YIH, District 19  
KURT TIBBETS, Collector

006 SENATOR MAE YIH, DISTRICT 19: Testifies in support of SB 367-A.

028 KURT TIBBETS, COLLECTOR: Explains the definition of "antique".

030 CHAIR TARNO: Senator Yih, you are looking at going back to 1968?

036 SEN. YIH: "1968 is what the police said was their best offer."

031 TIBBETS: We can work with that, however, I believe that we would most likely find ourselves back here in 1997, if we choose to affix the date of 1968.

032 CHAIR TARNO: Gambling devices have been a concern of law enforcement for a number of years and they feel that we do have to have some kind of controls on it. So would it be your recommendation to go with the '68 language?

042 SEN. YIH: If that is the consensus of the committee, we prefer the 25 years.

042 REP. PROZANSKI: It's my understanding that you agreed to use the 1968 date. Looking at the testimony it looks as if you have second thoughts.

054 SEN. YIH: "He asked me if 1968 is acceptable, that is his best offer, and I say that I need to talk to my constituent. My constituent did contact him."

057 TIBBETS: I did speak to the Lieutenant at the Oregon State Police.

061 REP. PROZANSKI: I understand that he made contact with you sometime on Thursday, and that you had not heard back from your constituents.

064 TIBBETS: Discusses the onset of operation of video poker machines in the state of Oregon.  
The "gray machine" definition.

082 CHAIR TARNO: Senator Yih, I believe that this is a pretty tough issue for law enforcement to have a grasp on in changing the language that has been here for a number of years. I am inclined that we will have to bring this back next session.

094 REP. LEWIS: I support the bill as it originally came to us from Sen. Yih. I think for us to not allow for people to not have the machines, section 2, if the machines are older than 25 years old, a person ought to be able to possess it, and I am disappointed if the committee want to change the dates.

108 CHAIR TARNO: The law enforcement has come back to us with a counter to the 1968 date, instead of the '58 date. What are the wishes of the committee?

114 REP. PROZANSKI: I'd like to move the amendments from the state police.

124 REP. COURTNEY: Your moving the -A3 amendments, but you are inserting the dates 1968 for the year 1958, is that correct?

131 REP. PROZANSKI: I am not sure at whose request the -A3 amendments were drafted.

132 SEN. YIH: Either 1968 or 25 years is acceptable.

134 REP. PROZANSKI: Looking at the proposed amendments that have been submitted to my office by the state police, they seem to be contradicting or different from the -A3 amendments.

147 REP. COURTNEY: Attempts to clarify what is being conceptually amended.

142 REP. PROZANSKI: Delete what is currently on lines 15 and 16, page 1 and insert at sub B, "prior to 1968 was located" in a private residence "and was not used for the purpose of unlawful gambling".  
-Page 2, deleting lines 2 and 3 and inserting, "prior to 1968 was located in a private residence and was not operated for the purpose of unlawful gambling" [EXHIBIT A].

157 REP. GRISHAM: We had discussed before "artifacts or museum" and the display of such items.

163 REP. PROZANSKI: My understanding was that information was going to stay in there. The intent of the police was not to limit the John Day machines, in fact they wanted to make certain that they were exempted from the law.

171 CHAIR TARNO: Rep. Grisham do you have a suggested change?

172 REP. GRISHAM: Inserting after the words "private residence" the words "or displayed for viewing as a historical artifact," and I assume that this wording would also have to be carried forward to page 2, line 3, after private residence in the same manner.

182 REP. LEWIS: Questions as to whether the Senator is comfortable with the proposed changes.

184 SEN. YIH: If this is the committee's decision, then this is OK, as long as we attempt to keep as much of the original bill as possible.

190 REP. COURTNEY: Are they saying that the language changes are OK for now, until it reaches the conference committee?

197 FELTON: The amendment adopted at last meeting, the -A3 amendments, and I want to make certain for the record that you want to conform the bill, in that this amendment takes precedence over the amendment which was formerly adopted.

204 CHAIR TARNO: It can be drafted by Aaron who can then take it to Legislative Counsel.

207 MOTION: REP. PROZANSKI: Moves to adopt the conceptual amendments to SB 367 A as suggested by Rep. Prozanski and Rep. Grisham.

210 CHAIR TARNO: Hearing no objection the motion CARRIES.

215 MOTION: REP. PROZANSKI: Moves SB 367 A as amended to the Floor with a DO PASS recommendation.

217 REP. LEWIS: Given that the Senator will go along with the compromise, I will vote in support of the bill. I feel that we are infringing on the rights of someone.

221 CHAIR TARNO: I agree and hope that you folks can bring this thing back  
and try to make it a better piece of legislation.

226 VOTE: In a roll call vote all members are present and vote AYE.

230 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 367 A  
OPENS the WORK SESSION on SB 320-A

Witness:

DAVID FACTOR, Oregon Criminal Justice Council

244 FELTON: Gives brief overview of SB 320.

252 DAVID FACTOR, OREGON CRIMINAL JUSTICE COUNCIL: Discusses the -A3  
amendments which come to the committee from the Oregon Criminal Justice  
Council  
[EXHIBIT B].

273 REP. PROZANSKI: Claims responsibility for the -A2 amendments and  
explains what function they serve [EXHIBIT C].

276 MOTION: REP. PROZANSKI: Moves the -A2 amendments to SB 320.

CHAIR TARNO: The motion CARRIES.

281 MOTION: REP. PROZANSKI: Moves the -A3 amendments to SB 320.

CHAIR TARNO: The motion CARRIES.

284 MOTION: REP. PROZANSKI: Moves SB 320 as amended to the full committee  
with a DO PASS recommendation.

288 VOTE: In a roll call vote all members are present and vote AYE.

290 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 320 A  
OPENS the WORK SESSION on SB 193-A

Witness:

BRADD A. SWANK, Office of the State Court Administrator

306 BRADD SWANK, STATE COURT ADMINISTRATOR'S OFFICE: Testifies in support  
of SB 193 A [EXHIBIT D].

359 CHAIR TARNO: Does this have the ability to consolidate and streamline  
the process?

361 SWANK: It does, and will most likely save some money in the long run.

377 CHAIR TARNO: In the Senate, did you have any kind of adverse testimony  
on this?

378 SWANK: Responds in the negative.

380 MOTION: REP. COURTNEY: Moves SB 193 A to the full committee  
with a DO PASS recommendation.

382 VOTE: In a roll call vote all members are present and vote AYE.

384 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 193 A  
OPENS the WORK SESSION on SB 641 A

Witnesses:

WILLIAM CURTAIN, Lewis and Clark College

CRAIG SMITH, Oregon Community College Association

DAVID FIDANQUE, ACLU

386 WILLIAM CURTAIN, LEWIS AND CLARK COLLEGE: Testifies in support of SB  
641 A. [EXHIBIT E].

405 CHAIR TARNO: How many officers are involved with the security campus  
police and would be going to BPSST.

411 CURTAIN: Some of them already have. However, all future officers would  
be going to BPSST.

440 CHAIR TARNO: So this is a fiscal impact to the college.

445 REP. COURTNEY: The budget works in a different way.

450 CURTAIN: Private colleges will pay for the training.

491 CHAIR TARNO: Is this a Ways and Means issue or not.

492 CRAIG SMITH, OREGON COMMUNITY COLLEGES ASSOCIATION: I can speak on behalf of the Chemeketa Community College security in that we already send all of our officers to BPSST.

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046 CHAIR TARNO: Will there be a fiscal impact to any of the universities?

048 SMITH: This only applies to community colleges and there would be no additional cost to the community colleges to send the officers to BPSST.

051 REP. PROZANSKI: Statutes now allow community colleges to appoint individuals to enforce traffic regulations on campus is that correct?

055 SMITH: The statute says that they are appointed as police officers for the purpose of enforcing traffic, but once they are appointed they have the same authority as other peace officers as defined in ORS 133.005.

057 REP. PROZANSKI: How do you reach that nexus, that they all receive the full police officer status?

060 SMITH: The statutes say, for the purpose of enforcing traffic violations but once they are appointed they have the full officer status; that is why I am saying we need some clarification.

063 REP. PROZANSKI: I am having a tough time making that same conclusion, because if the statute says that an appointment is for traffic enforcement, I don't see where they get full "rank and file" as a regular peace officer?

066 SMITH: This is what is unclear, because the next part of the statute reads, "shall have the same status as other police officers..."; ORS 341.300.

083 REP. LEWIS: Reading the documentation provided by the independent colleges association, it gives security associated with higher education facilities, probable cause arrest authority, but not to the community colleges or security officers to private colleges.

093 CURTAIN: That is the intent of the private institutions, and yes, that is our goal.

095 SMITH: We feel the current statute is operating under is ambiguous and if we amend this statute it would clarify our officers' abilities.

099 CHAIR TARNO: In a community college, when you send someone to BPSST, they go for free?

101 SMITH: No, the community colleges pay that.

103 REP. PROZANSKI: Requests some clarification of the ORS statute being referenced by Mr. Smith's testimony.

105 SMITH: ORS 341.300.

112 \*\*Committee pause while statute is being reviewed by Rep. Prozanski.\*\*

120 REP. PROZANSKI: I am having a hard time with the concept of giving private individuals the same status which we afford the public police officers. I don't see the justification.

132 CURTAIN: In private colleges, we have a standard where we're trying to operate on third party information and we are required to respond to violations of law on our campuses. Police response is difficult in the Portland area to problems of misdemeanor crime on the campus.

148 CHAIR TARNO: One of the things that I see is that this bill allows your staff to make an arrest with probable cause on your campus for class A misdemeanors, class B misdemeanors and possibly even felony's. I will refer this to Ways and Means if it does pass out of this committee because it does have a fiscal impact on community colleges.

159 REP. PROZANSKI: How far are we going to allow this type of power to be?

I believe that this type of allowance is dangerous for the individuals patrolling the campus and with the discussion of the different levels of force, I am really concerned.

166 CHAIR TARNO: I share your concerns.

170 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION (ACLU): Testimony in opposition to SB 193 A.

191 MOTION: REP. COURTNEY: Moves SB 641 A to the full committee with a

DO PASS recommendation.

192 VOTE: In a roll call vote REPS. COURTNEY, GRISHAM, LEWIS and  
AYE. REP. PROZANSKI vote NAY.

TARNO vote

194 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 641 A  
OPENS the PUBLIC HEARING on SB 787 A

Witness:  
GARY CONKLING, McCaw Cellular Communications, Inc.

216 GARY CONKLING, MCCAW CELLULAR COMMUNICATIONS, INC.: Testifies in  
support of SB 787. [EXHIBIT F].

CLOSES the PUBLIC HEARING on SB 787 A  
OPENS the WORK SESSION on SB 787 A

237 MOTION: REP. PROZANSKI: Moves SB 787 A to the full committee with a  
DO PASS recommendation.

239 VOTE: In a roll call vote all members are present and vote AYE.

241 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 787 A  
OPENS the WORK SESSION on SB 1052 A

Witnesses:  
SERGEANT TOM COX, Oregon State Police Gaming Enforcement Section  
CLIFF DAMLER, Oregon State Police Department

260 SERGEANT TOM COX, OREGON STATE POLICE GAMING ENFORCEMENT SECTION:  
Testifies in support of SB 1052 A. [EXHIBIT G].

272 CHAIR TARNO: Why is this limited to the Oregon State Police?

276 COX: It's limited to the state police and the tribal commissions.

278 CHAIR TARNO: Would it be a problem to "plug in" local law enforcement  
into this bill?

280 COX: I don't see any reason off hand sir.

284 CLIFF DAMLER, OREGON STATE POLICE: The reason for the inclusion of just  
the state police in this matter as opposed to all local law enforcement  
agencies, is that the fingerprint cards are being turned into the state  
police for action.

292 CHAIR TARNO: If for example, Umatilla wants to do a background check on  
a new employee, couldn't local law enforcement do that basic background  
check.

296 DAMLER: They could if the tribal gaming folks wanted to execute the  
agreement with the local law enforcement, but they are choosing to execute  
this with the state police only.

297 CHAIR TARNO: My concern is maybe we're leaving local law enforcement  
out of the loop on something that maybe they should be involved in.

303 DAMLER: The tribal gaming commissions are not authorized to receive  
this criminal information at this time.

311 REP. PROZANSKI: Is there a reason as to why it would be best to have  
this all centrally located where the records are and what the results are?

323 COX: I believe it would. The Indian gaming is nationwide. Getting one  
agency to coordinate all of the criminal activity, it is better.

337 CHAIR TARNO: I'm going to suggest we add local law enforcement in this.

Basic background information can be done on a local basis.  
-Offers a "friendly" conceptual amendment to SB 1052, after the words  
"Department of State Police", add "or local law enforcement agency."

340 MOTION: CHAIR TARNO: Moves conceptual amendments to SB 1052 A, by  
adding language "or local law enforcement agency" after the words  
"Department of  
State Police".

342 CHAIR TARNO: The motion CARRIES.

377 MOTION: REP. PROZANSKI: Moves SB 1052 as conceptually amended  
to the full committee with a DO PASS recommendation.

380 VOTE: In a roll call vote all members present vote AYE. REP. COURTNEY  
is EXCUSED.

383 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 1052

380 CHAIR TARNO: With nothing further the meeting is adjourned.

Submitted by,

Reviewed by,

Janet Ellingsworth,  
Committee Assistant

Debra Johnson,  
Committee Coordinator

EXHIBIT SUMMARY

A - Proposed amendments to SB 367 A - Rep. Prozanski - 1 page  
B - Proposed amendments to SB 320 A - Factor - 3 pages  
C - Proposed amendments to SB 320 A - Rep. Prozanski - 1 page  
D - Testimony to SB 193 A - Swank - 2 pages  
E - Testimony to SB 641 A - Curtain - 10 pages  
F - Testimony to SB 787 - Conkling - 1 page  
G - Testimony to SB 1052 A - Cox - 2 pages  
H - Testimony to SB 787 A - Peters - 2 pages  
I - Testimony to SB 787 A - Bear -1 page