

HOUSE COMMITTEE ON  
LEGISLATIVE RULES

May 31, 1995      Hearing Room D  
7:30 a.m.          Tapes 103 - 103

MEMBERS PRESENT:

Rep. Ray Baum, Chair  
Rep. Lee Beyer, Vice-Chair  
Rep. Tony Corcoran  
Rep. Peter Courtney  
Rep. Lynn Lundquist  
Rep. Bill Markham  
Rep. Patti Milne  
Rep. Lonnie Roberts  
Rep. John Watt

MEMBER EXCUSED:

STAFF PRESENT:

Aaron Felton, Committee Administrator  
Cynthia Charrey, Committee Assistant

MEASURES HEARD:

SB 152 - Possible Reconsideration and Work Session  
SB 951 - Possible Reconsideration and Work Session  
SB 1120 - Public Hearing and Possible Work Session  
SJR41 - Public Hearing and Possible Work Session  
HJR 41 - Public Hearing and Possible 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 103, Side A

003      CHAIR BAUM:    Calls meeting to order at 7:

OPENS PUBLIC HEARING ON SJR41

DAVID FIDANQUE

083      FIDANQUE:    Continues to t

087      WATT:    Who are the opponents of this bill?

91      FIDANQUE:    Under the federal constitution, local communities are free to regulate what they view are obscenities. That is our problem with this

bill.

138 -This measure could have been written in a way as to require...

Opens the Work Session on SJR41

154 MOTION: REP. ROBERTS: Moves SJR41 to the Floor with a DO PASS recommendation.

160 REP. WATT:

166 REP. CORCORAN: Will be opposing this bill.

190 BAUM: Pornography is not free speech.

OPENS WORK SESSION ON SJR41

MOTION:

In a roll call vote

CHAIR BAUM: The motion carries.

REP. MANNIX will lead the floor discussion.

CLOSE WORK SESSION on SJR41

OPEN WORK SESSION ON SB 1120

243 DAVID FIDANQUE: Testifies in opposition of SB 1120, offers amendment, (Exhibit A)

267 WATT:

298 REP. KEVIN MANNIX: Testifies in support of SB 1120. Comments on Amendment proposed by David Fidanque.

378 OLIVE HODSON: Testifies in support of SB 1120.

Tape 104, Side A

003 HODSON: Continues to testify in support of SB 1120.

047 ROBERTS: My concern is what they do to other people the danger that

057 HODSON: Agrees with Rep. Roberts.

071 LOUISE SHAW, SPEAKING FOR HERSELF:: Testifies in support of SB 1120.

108 MARIE BELL, SPEAKING FOR HERSELF: Testifies in support of SB 1120.

175 MANNIX: Concludes testimony in support of SB 1120.

216 ROBERTS: What are we going to do to defeat the "smut peddlars" when this comes up for a vote before the people.

330 MANNIX: :Lists specific reasons why this bill will be more palatable to voters.

242 CORCORAN: questions his concerns with the bill.

248 BELL: Responds to Rep. Corcoran's questions.

261 CORCORAN: I would support this if it dealt with child pornography, but I have reservations on supporting this bill as written

CLOSES PUBLIC HEARING ON SB 1120

OPENS WORK SESSION ON SB 1120

279 WATT: DO PASS

304 CHAIR:

HOUSE COMMITTEE ON  
LEGISLATIVE RULES

Hearing Room  
2:00 p.m. Tapes -108

MEMBERS PRESENT:

Rep. Ray Baum, Chair  
Rep. Lee Beyer, Vice-Chair  
Rep. Tony Corcoran  
Rep. Peter Courtney  
Rep. Lynn Lundquist  
Rep. Bill Markham  
Rep. Patti Milne  
Rep. Lonnie Roberts  
Rep. John Watt

STAFF PRESENT:

Aaron Felton, Committee Counsel  
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 467 Work Session  
SB 178 Public Hearing  
SB 118 Public Hearing and 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 , SIDE A

003 CHAIR BAUM: Calls the meeting to order at 2:30 p.m..

OPENS PUBLIC HEARING ON SB 178

REP. Roberts: Are we going to be moving on SB 467?

rep. Milne: We were going to have Legislative Counsel explain how Senator  
Brecke's amendment fits in with the other.

RECESSES PUBLIC HEARING ON SB 178

OPENS WORK SESSION ON SB 467

60 rep. Roberts: Would like to address the -32 amendments (EXHIBIT A).

65 rep. Milne: Which amendments are we talking about? The -35 amendments  
are there to replace the -32s.

082 REP. LIZ VANLEEUWEN, DISTRICT 37: Discusses -35 amendments to SB 467  
(EXHIBIT B ).

CHAIR Baum: Think the last time we discussed these they were the B-32s.  
What are the differences?

100 REP. VANLEEUWEN: Discusses the differences.

114 GREG MCMURDO, DEPUTY SUPERINTENDENT: Testifies on behalf of the  
Superintendents office. Concerns with the amount of money it may cost.

126 rep. Roberts: Are you talking about the 15 and 12 miles?

MCMURDO: No, we did a fiscal impact on 15 miles and 20 miles but have not  
done a fiscal impact on 12 miles. Continues with testimony.

MOTION: REP. ROBERTS: Moves to ADOPT the SB 467-C35 amendments, AS  
AMENDED.

VOTE: CHAIR BAUM: Hearing no objection, the amendments are ADOPTED.

148 SEN. BRENDA BRECKE, DISTRICT 24: Testifies and submits -22 proposed  
amendments to SB 467(EXHIBIT C).

MCMURDO: Think that the school is already covered by the bill.

CHAIR BAUM: Had the same question, but legislative counsel will explain it.

165 Hunt, LEGISLATIVE counsel: Discusses C engrossed vs. B-22 amendments.

174 CHAIR BAUM: The B-32 do not conflict with the -22? Because the union high school concept, it might not cover.

Hunt: The -22 pertain to a component school, that is an elementary school away from a high school.

CHAIR BAUM: The difference is that the school you have is already part of a union school district. Could you explain the union high school? Is the grade school part of the district for tax purposes?

196 MCMURDO: We had considered them taken care of because it is more than the 15 miles for mergers.

CHAIR BAUM: Your concern is, is this necessary?

212 JOHN MARSHALL, OREGON SCHOOL BOARD ASSOCIATION: Discusses the mandatory unification law and how that pertains to SB 467.

224 Markham: So they tax themselves for K-12 to pay for their high school kids?

Marshall: Their taxes show two lines, one for the elementary school and one for the high school

markham: Is it an agreement between the two boards on tuition?

Marshall: Not in the situation of a component district within the boundaries of an Union high.

CHAIR BAUM: You see that there is a need for the -B22.

Marshall: Yes, if you wish to exempt the Agness school.

McMurdo: Agrees that it is now necessary.

MOTION: REP. MARKHAM: Moves to ADOPT the SB 467-B22 amendments.

VOTE: CHAIR BAUM: Hearing no objection the amendments are adopted.

MOTION: REP. MILNE: Moves that SB 467, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

vote: In a roll call vote, all members present vote AYE: The motion CARRIES. REPS. WATT and BEYER are EXCUSED.

REP. LUNDQUIST will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 467

PUBLIC HEARING ON SB 178

Witnesses: Ted Reutlinger, Legislative Counsel  
Tim Raphael, Oregon State Public Interest Research Group  
Lynn Rosick, General Counsel, Secretary of State's Office  
Dave Moss, Associated Oregon Industries  
Phil Keisling, Secretary of State  
John Danielson, Oregon Education Association

325 TED REUTLINGER, LEGISLATIVE COUNSEL: Testifies to discuss the differences between the -7 and -8 amendments (EXHIBIT D, E, & I). Discusses section by section differences between amendments and the original bill.

365 Committee staff passes out information from Rep. Baum (EXHIBIT F).

TAPE 106, SIDE A

027 REP. CORCORAN: The second paragraph, page 2, line 13. Is that new language?

REUTLINGER: Yes it is. It is designed to limit the audit authority to political affairs.

033 REP. CORCORAN: How would you distinguish between the two?

REUTLINGER: Auditors would have experience to draw that line. There is not much in this section to provide direction.

REP. CORCORAN: You could call it anything you want and say it wasn't for political affairs and they couldn't look at it.

043 CHAIR BAUM: But that is okay. There are more accounts other than political accounts. They shouldn't be looking to labor or corporations books that have no bearing on the issue.

REP. CORCORAN: Thinks that labor organizations have a lot less to worry about than corporations.

049 REUTLINGER: Continues with discussion of bill and amendments.

099 REUTLINGER: Continues with discussion of bill and amendments

130 CHAIR BAUM: You have had a chance to look at the contribution limits which in this amendment differs from, now it would be \$1000 for all candidates. Is that going to be held as constitutional?

REUTLINGER: A higher number may be easier to be found constitutional, explains. When the number is higher, the chances are better.

CHAIR BAUM: Under the federal first amendment it seems to meet the threshold, but you are expressing some concern about the Oregon Constitution and has potential the potential to err more on the side of free speech.

REUTLINGER: Right.

CHAIR BAUM: The Oregon Supreme court developed some expenditure limits in the seventies. We have expenditure limits in this bill. What kind of research is there about applying penalties to overexpenditures?

169 REUTLINGER: In Oregon, doesn't believe there is any case law on that. The Dept. of Justice has gone both ways on that issue. Discusses the latest Measure 9 ties it to tax credit and puts it in the voters pamphlet.

186 CHAIR BAUM: You are discussing the -7 amendments and the voluntary expenditure limits is assigned when you don't notify? Not the actual exceeding of the limit?

REUTLINGER: Correct. It doesn't allow a civil penalty just for exceeding the limit but would be tied to the tax limit.

CHAIR BAUM: There is still some potential for Constitutional problems.

REUTLINGER: Well there is the potential.

225 TIM RAPHEAL, OSPIRG: Testifies and submits written testimony in opposition to SB 178 (EXHIBIT G).

363 LYNN ROSICK, GENERAL COUNSEL, SECRETARY OF STATE: Discusses constitutionality issues of Measure 9 vs. SB 178 and amendments. The Attorney General's office is upholding Measure 9 as constitutional.

410 REP. CORCORAN: How much is it costing the state to defend Measures 6 & 9?

ROSICK: Doesn't know.

REP. CORCORAN: Has heard that it would take up to five years to get ultimate resolution on Measures 6 & 9. It could be two more election processes that we would go through before we know the resolution.

ROSICK: It is hard to say how long the process could take. There is no in way to know.

TAPE 105, SIDE B

023 CHAIR BAUM: The litigation is in the Federal Court because Measure 6 is Constitutional and once it is dealt with it essentially runs the show and they only the federal courts have the right to do.

ROSICK: They may not be the only court who could.

CHAIR BAUM: It would be harder for our courts to do that though.

036 REP. CORCORAN: Why hasn't an injunction been sought?

CHAIR BAUM: Part of the problem is that there hasn't been a candidate who has stood up for it and challenged the BM.

042 REP. CORCORAN: Thinks with an injunction...

CHAIR BAUM: You must have clear and convincing evidence that it will do harm to you.

REP. CORCORAN: So with a candidate that could show.

CHAIR BAUM: They could, but there hasn't been an actual candidate to do this yet.

049 DAVE MOSS, ASSOCIATED OREGON INDUSTRIES: Testifies on behalf of the proposal by Rep. Baum.

072 CHAIR BAUM: What is temporal wealth?

Moss: Explains temporal wealth and continues with testimony.

145 REP. CORCORAN: Has two issues. Can you address the issue that the voters have spoken? The other issue is a different opinion of corruption, explains and gives example. Corruption is a concept that money is involved and there is money involved in decisions in the legislature.

Moss: My concern is that Measure 9 accelerates the trend towards independent expenditures. You will not have sufficient funds in a race to

put out one mailing. Doesn't think that is a positive effect on the voting process. Discusses the voters opinion and election of Measures 6 & 9 and how they would work together. Continues with testimony about referrals.

202 REP. CORCORAN: Thinks that he understood Measures 6 & 9 also. It is one thing to say that and one thing to tell the public that they didn't know what they were voting on.

Moss: Doesn't think the chair's proposal says that, explains. If you have a system which discourages most people and the middle class from participating, doesn't think that is an effect that the voters would like.

229 REP. Markham: The issue of having the public look at it a second time.

This legislature has nine times gone to the people and that is the same thing we are doing here.

Moss: Agrees.

245 PHIL KEISLING, SECRETARY OF STATE: Testifies in support of SB 178. Discusses technical concerns of SB 178 -7 amendments (EXHIBIT H).

316 REP. CORCORAN: What do you think of the argument that Measure 6 & 9 closes the door on the average person?

KEISLING: Thinks that is backwards, explains. Thinks that people will change their behavior to come in line with the new laws.

359 REP. CORCORAN: Who would have the time to do that?

KEISLING: It takes time to do that now. Those arguments were not made during the campaign when it could have made a difference.

384 REP. CORCORAN: Agrees with the analysis about the danger of the independent expenditures. Thinks that Measure 9 exacerbates that.

KEISLING: Independent expenditures. The question is, will it get worse. The only way to find out is to run a cycle and see.

TAPE 106, SIDE B

020 CHAIR BAUM: Thinks he said it fairly well.

REP. CORCORAN: Doesn't think that it is going to change what goes on in the Capitol.

031 JOHN DANIELSON, OREGON EDUCATION ASSOCIATION: Testifies in concern to the -7 amendments to SB 178.

122 REP. LUNDQUIST: Based on your experience how would you rate the value of the an informed electorate to good government? And how does Measure 9 affect an informed electorate?

Danielson: Thinks an informed electorate is in decline and people are not informed as they used to. Thinks it is that more difficult for the

electorate to be informed. What the measures would do, would make it impossible to defeat an incumbent. Doesn't think that you do the public a service by not allowing the candidate to put out his information.

CLOSES PUBLIC HEARING ON SB 178

OPENS PUBLIC HEARING ON SB 118

Witnesses: Jim Stevenson, Oregon State Police  
Senator Neil Bryant, District 27  
Julia Hinkley, Oregon State Police  
Chuck Hayes, Oregon State Police  
Fred Avera, Oregon District Attorney's Association  
Jim Arneson, Oregon Criminal Defense Lawyer's Association

187 JIM STEVENSON, OREGON STATE POLICE: Testifies in support of SB 118 (EXHIBIT J).

208 Sen. Neil Bryant, District 27: Discusses SB 118.

SEN. Bryant: We put in provision of the bill that would satisfy Rep. Parks. That is why the sunset was added. It was intended to cover more than just accidents, it was for any reasonable suspicion.

228 CHAIR BAUM: The -9 amendments are O.K.?

SEN. Bryant: You should add back the sunset.

247 STEVENSON: Continues with testimony and discussion of the -9 amendments.

263 REP. Markham: Refusal is the same as refusing the breath test. Is that correct?

265 STEVENSON: That is correct.

270 CHAIR BAUM: Do you do this right out on the street?

274 STEVENSON: No, it is done in a facility that administers the test.

276 REP. Courtney: You will have some problems with people trying to circumvent this.

283 STEVENSON: Continues with testimony.

312 REP. Markham: Why does an officer have to gain this training?

STEVENSON: For an officer to have a certain amount of expertise to determine if it is a controlled substance rather than alcohol and it would better enable the officer to recognize that.

325 REP. Watt: Can you detect a difference in a urine sample the difference between marijuana, heroin and cold medicine.

333 JULIA HINKLEY, OREGON STATE POLICE: Testifies and submits written testimony in support of SB 118 (EXHIBIT K). Yes, we can tell the difference of what substance is in the urine sample.

REP. Markham: How many things come out in the test?

HINKLEY: Describes what the test will show.

365 REP. Watt: Last session didn't we pass a bill that made it a crime to drive impaired .

Rep. Watt: This has been a problem for a long time.

STEVENSON: Correct.

rep. Watt: Usually the only option is to do a urine test?

385 HINKLEY: Discusses what options for detecting drugs in system. Discusses problems for rural agencies.

412 REP. Watt: Thinks Rep. Courtney had a good point about someone trying to avoid the test. Where does that leave you?

TAPE 107, SIDE A

012 CHUCK HAYES, OREGON STATE POLICE: The processing of the person will take 2 hours, then they will be asked for a urine sample. If they can't or

won't that will provide a refusal. We will wait a reasonable amount of



time (EXHIBIT L & M).

rep. Watt: It constitutes a refusal if he voids his bladder where you can't test the urine.

HAYES: No, it only constitutes a refusal if they have been read the rights that provide the person the option to test or refuse.

031 REP. LUNDQUIST: How sensitive is the ratio between alcohol and drugs?

HINKLEY: There is no really no correlation. A person can be under the influence on many different levels of drugs found in the system. We rely heavily on the officer's field testimony.

045 CHAIR BAUM: Under current law, there is nothing you can do today. You can ask them to volunteer a urine sample, but what happens to the person while the sample is being tested.

066 HAYES: The person is still charged with DUII.

081 CHAIR BAUM: What if the toxicology portion comes back negative or zero?

HAYES: If that is true, the case is not usually prosecuted..

CHAIR BAUM: That is the kind of evidence contrary to the state's interest.

089 FRED AVERA, OREGON DISTRICT ATTORNEY'S ASSOCIATION: The prosecution will not proceed.

rep. Markham: What are the three legs again?

HAYES: The officer's observation at roadside, the officers training, and finally the toxicology report.

rep. markham: Discusses past tests of marijuana. Where have you been since then?

105 HINKLEY: We, for a long time, have been able to detect drugs in urine.

Discusses how they have been doing drug testing for the last few years.

114 rep. Markham: The reason you are back is because the legislature took more of a conservative bent this time around.

STEVENSON: This will be the fourth time that we have tried to get this legislation passed.

124 CHAIR BAUM: How many drugs do you test for?

HINKLEY: We cannot find LSD and look for almost all of the controlled substance list.

CHAIR BAUM: Including prescription drugs?

HINKLEY: It would only be those drugs that are on the controlled substance list, explains.

CHAIR BAUM: This test picks those substance up?

HINKLEY: Yes.

CHAIR BAUM: How many potential DUII go un-prosecuted because of lack of this test?

HAYES: It is hard to tell. Would say that about 50%.

157 CHAIR BAUM: You feel that up to 50% of DUII's are.

HAYES: Feels that 50% of those below the .08 are.

CHAIR BAUM: From the drugs.

AVERA: There are a lot of cases, where a stop occurs without an indication of alcohol, and the officer takes the person home or lets them go.

178 REP. MARKHAM: Is this a trial period? Does it include just State Police or county and city people as well.

180 STEVENSON: It would apply to all law enforcement.

183 chair BAUM: That eight hours of training would have to occur before they could ask for a urine sample?

185 STEVENSON: That is a requirement.

186 AVERA: We are providing that training right now throughout the state.

189 REP. COURTNEY: What other states are doing this?

191 AVERA: There are 37 states that currently have a urine testing procedure in place for their implied consent laws.

196 REP. COURTNEY: The toughest drinking laws were put on the book by the '81 and '83 sessions.

218 AVERA: This is a good bill and it ought to be passed.

220 REP. COURTNEY: What about the sunset?

221 AVERA: Can live with that.

223 REP. COURTNEY: Is the sunset in the bill now?

224 AVERA: It is not in the -A9 amendments or the bill.

225 REP. COURTNEY: Then we have to take more action than just adopting the -A9s.

227 AVERA: Has concerns with the -A9 amendments.

287 REP. MILNE: Doesn't know that ORS. Are you saying you could use it for some other crimes?

292 AVERA: My preference would be to use it to prosecute for all offenses. However if the decision is made that it can't be used for all then the legislature must make it clear.

300 REP. MARKHAM: If we do what you want we risk losing the bill.

305 STEVENSON: We would go along with that.

310 CHAIR BAUM: Do we have a crime of possession of drugs by consumption by adults?

314 AVERA: No, we do not.

316 AVERA: There are a number of crimes that it can be used for.

321 CHAIR BAUM: The argument is that you are invading privacy of a person who smoked marijuana 20 days ago.

323 AVERA: We are dealing with people who have attracted the attention of a police officer already. Therefore we are not invading privacy.

340 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYER'S ASSOCIATION: Testimony against SB 118. Mr. Fidanque asked me to tell you that he had to leave.

412 REP. MILNE: What is substantial?

414 ARNESON: Evidence will stay in for as little as six days and as long as six months.

420 CHAIR BAUM: What about methamphetamines?

423 ARNESON: It stays in the urine much longer than alcohol.

TAPE 108, SIDE A

030 ARNESON: Doesn't think this bill addresses that. The original Senate Bill talked about 50 some units, that has been changed to levels established by the federal agency that sets these standards.

056 CHAIR BAUM: Your issue is classic search and seizure.

058 ARNESON: Yes.

061 CHAIR BAUM: So it is all hinged on driving a motor vehicle.

072 ARNESON: Explains his understanding of "search and seizure".

082 CHAIR BAUM: Mr. Avera come sit by Mr. Arneson.

CLOSES PUBLIC HEARING ON SB 118

OPENS WORK SESSION ON SB 118

086 chair baum: Differentiate between the urine and breath tests.

087 AVERA: The reason we're able to take breath now is the person who enters a vehicle provides consent by driving the vehicle. Urine would be the same way.

098 CHAIR BAUM: We've already stepped across this line anyway.

099 MOTION: REP. MARKHAM: Moves to adopt SB 118-A10 amendments.

VOTE: CHAIR BAUM: Hearing no objection, the amendments are ADOPTED.

102 CHAIR BAUM: What was the sunset date?

104 AVERA: Two years.

109 CHAIR BAUM: Conceptual amendments to SB 118.

113 MOTION: REP. COURTNEY: Moves to amend SB 118 through the addition of Section 4, which contains the Sunset Clause.

VOTE: CHAIR BAUM: Hearing no objection, the amendments are ADOPTED.

116 MOTION: REP. MARKHAM: Moves to amend SB 118 through the deletion of Subparagraph 6 on page 2, lines 16-20.

of

VOTE: CHAIR BAUM: Hearing no objection, the amendments are ADOPTED.

MOTION: REP. COURTNEY: Moves that SB 118, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

the

VOTE: In a roll call vote, all members vote AYE. The motion carries. REPS. CORCORAN, ROBERTS, WATT and BEYER are EXCUSED.

Rep. Courtney will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 118

CHAIR BAUM: Adjourns meeting at 4:55 p.m.

#### EXHIBIT SUMMARY

A-	Amendments on SB 467-	Submitted by: Rep. VanLeeuwen	6 pages
B-	Amendments on SB 467-	Submitted by: Rep. VanLeeuwen	3 pages
C-	Amendments on SB 467-	Submitted by: Sen. Brecke	2 pages
D-	Amendments on SB 178-	Submitted by: Ted Reutlinger	73 pages
E-	Amendments on SB 178-	Submitted by: Ted Reutlinger	72 pages
F-	Testimony on SB 178-	Submitted by: Rep. Baum	3 pages
G-	Testimony on SB 178-	Submitted by: Tim Raphael	1 page
H-	Testimony on SB 178-	Submitted by: Phil Keisling	2 pages
I-	Testimony on SB 178-	Submitted by: Ted Reutlinger	6 pages
J-	Amendments on SB 118-	Submitted by: Jim Stevenson	2 pages
K-	Testimony on SB 118-	Submitted by: Julia Hinkley	6 pages
L-	Testimony on SB 118-	Submitted by: Chuck Hayes	7 pages
M-	Testimony on SB 118-	Submitted by: Jill Vosper	2 pages