

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes 86, 88 & 89

MEMBERS PRESENT:
Sen. Bill Kennemer, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler
Sen. Joan Dukes

MEMBER EXCUSED:
Sen. William McCoy

STAFF PRESENT:
Darrell W. Fuller, Committee Administrator
Carol A. Smith, Committee Assistant

MEASURES HEARD:
SB 843 Work Session
HB 2430-A Public Hearing And Work Session
HB 2650-A Public Hearing And Work Session
HB 2969-A Public Hearing
HB 2135 Work Session
HB 2719 Work Session
HB 2845 Work Session
HB 3308-A Work Session
SB 81 Work Session
SB 439 Work Session
SB 623 Work Session
SB 942 Work Session
SB 969 Work Session
SB 970 Work Session
SB 994 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 86, A

005 CHAIR: Calls the meeting to order at 3:08 p.m. Announces we will move HB 2969-A to end of calendar for the day.

016 CHAIR: Opens WORK SESSION on SB 843.

WITNESSES: John Gervais

017 CHAIR: The proponent of the bill, John Gervais, is not present.

019 CHAIR: Closes WORK SESSION on SB 843.

020 CHAIR: Opens PUBLIC HEARING on HB 2430-A.

WITNESSES: Ross Dwinell, United Grocers
Dave Edison, United Grocers Trust

022 ROSS DWINELL, United Grocers: Gives history of the bill. Worked with Department of Insurance on two concerns and worked out through compromise. States there are technical corrections to the bill. Refers to percentages and the way in which reserves are invested.

050 SEN. LIM: How much will the reserve be?

DWINELL: It will vary from year to year.

SEN. LIM: Explains he is asking about the deposit.

056 DWINELL: The bill does not affect that.

059 SEN. LIM: When was that instituted?

060 DWINELL: December, 1994.

062 CHAIR: Closes PUBLIC HEARING on HB 2430-A.

068 CHAIR: Opens WORK SESSION on HB 2430-A.

MOTION: SEN. DERFLER moves HB 2430-A to the Floor with a
DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, LIM and KENNEMER
EXCUSED: DUKES and MCCOY
CARRIER: DERFLER

075 CHAIR: Closes WORK SESSION on HB 2430-A.

077 CHAIR: Opens PUBLIC HEARING on HB 2650-A.

081 DARRELL FULLER, Committee Administrator: Gives overview of the bill and House history.

WITNESSES: Frank E. Brawner, Oregon Bankers Association
Alan Bennett, Pioneer Trust

087 FRANK E. BRAUNER, Oregon Bankers Association: Testimony in support of the bill. This is a Uniform Act you are about to consider. Under their proposal the uniform law commissioners would like to have entered into the record their report.

093 ALAN BENNETT, Pioneer Trust Bank: Submits written testimony in support of the bill (EXHIBIT B). Explains that the purpose of the bill is to adopt the uniform prudent investor act that was developed and adopted by the national conference of commissioners on uniform state laws. It provides that a trustee must invest and manage trust assets as a prudent investor by considering:

- purpose and terms of the trust;
- distribution requirements;
- other circumstances of the trust;
- reasonable care, skill and caution.

102 Continues: Further provides that trustee's investments are not evaluated in isolation. Refers to:

- trust portfolio as a whole;
- economic conditions;
- tax consequences;
- expected return;
- other resources available to beneficiaries;
- needs for liquidity and regularity of income;
- special relationship or value that trust asset may have;
- diversification as worthy objective;
- acknowledgment of circumstances where diversification may be inappropriate.

114 --establishment of trustee's duty of loyalty and impartiality;

- limits the costs that may be applied to a trust in investment arena;
- establishment of limitations and procedures for delegation of authority.

118 The bill replaces the rather nebulous prudent person rule that is the current State of Oregon statutes. Refers to:

- development of a rule not so much of simply outcome;
- compliance determined in light of circumstances existing and actions of trustee at the time the decisions were made.

126 HB 2650 will make Oregon statutory rule of the investment of activities as well as personal representatives and conservators consistent with the prevailing investment philosophy in the views of proper investment and management of such assets. This has evolved through case law and analysis ever since the Oregon prudent person rule was enacted.

128 SEN. DERFLER: If what you are describing is something that you would normally do, why do you need a bill to do that?

100 BENNETT: Oregon current law doesn't really say do what a trustee would normally do. He explains prevailing national rule.

(3:18 SEN. DUKES joins the meeting.)

140 BENNETT: Prudent investor act is appropriate in Oregon to produce more specificity. It has endorsement of the Oregon Bar Association; we feel this will put Oregon in the forefront of the evolution of prudent trust investment.

150 CHAIR: Closes PUBLIC HEARING on HB 2650-A.

CHAIR: Opens WORK SESSION on HB 2650-A.

MOTION: SEN. DERFLER moves HB 2650-A to the Floor with a
DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
EXCUSED: MCCOY
CARRIER: DERFLER

160 CHAIR: Closes WORK SESSION on HB 2650-A.
178 CHAIR: Opens WORK SESSION on HB 2135.

DARRELL FULLER, Committee Administrator: Gives history of the bill.
There are -1 amendments before us and
explains.

206 CHAIR: Explains recourse available currently.

203 MOTION: SEN. LIM moves to ADOPT the HB 2135-1 amendments.

VOTE: CHAIR: Hearing no objection the HB 2135-1
amendments are ADOPTED.

MOTION: SEN. LIM moves HB 2135, AS AMENDED, to the Floor with
a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
EXCUSED: MCCOY
CARRIER: LIM

230 CHAIR: Closes WORK SESSION ON HB 2135.

231 CHAIR: Opens WORK SESSION on SB 843.

DARRELL FULLER, Committee Administrator: We have -1 amendments.

WITNESS: Peggy Collins, Building Codes Division

238 CHAIR: Suggests working with FULLER to iron out any conflicts that need
to be addressed.

239 CHAIR: Closes WORK SESSION on HB 843.

301 CHAIR: Opens WORK SESSION on HB 2719.

302 DARRELL FULLER, Committee Administrator: Gives overview and House
history of the bill.

326 WITNESS: Jack Kane, Private and Fraternal Organizations

330 JACK KANE, Private and Fraternal Organizations: Testimony in support of
the bill.

334 Detailed conceptual language for an amendment is discussed.

TAPE 88, SIDE A (TAPE 87 IS DEFECTIVE)

017 Discussion on HB 2719 of profiteering and other items continues between
SEN. LIM, CHAIR and SEN. DUKES.
The bill is okay policywise.

CHAIR: States we need to send back to Legislative Counsel.

MOTION: CHAIR moves to ADOPT HB 2719 conceptual amendments.

VOTE: CHAIR: Hearing no objection the HB 2719 conceptual
amendments are ADOPTED.

025 MOTION: SEN. LIM moves HB 2719, AS AMENDED, to the Floor with
a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
EXCUSED: MCCOY
CARRIER: KENNEMER

056 CHAIR: Closes WORK SESSION on HB 2719.

058 CHAIR: Opens WORK SESSION on HB 2845.

059 DARRELL FULLER, Committee Administrator: Gives history of the bill.

061 SEN. DUKES: Explains her objections after talking with county clerks.
Address title companies, sees no need for this
bill.

062 CHAIR: Closes WORK SESSION on HB 2845.

063 CHAIR: SEN. LIM is excused for this meeting.

063 CHAIR: Opens WORK SESSION on SB 81.

WITNESSES: Jim Carlson, Oregon Health Care Association
Pete Shepherd, Department Of Justice
Dennis Russell, Oregon Association Of Homes for the Aged

066 PETE SHEPHERD, Department Of Justice: Submits written testimony in support of the bill (EXHIBIT C). Refers to:

--amendments and the UTPA;
--benefiting consumers and educating principals;
--four parts of letter of written testimony.

146 JIM CARLSON, Oregon Health Care Association: Refers to:
--need for trust; educating Department of Justice.

167 CHAIR: The regulatory authority resides with Senior Services Division. It seems to me that you were mixing enforcement of the extreme case with regulation and nit-picky enforcement.

179 CARLSON: Our focus is on what representations were made to the consumer; refers to other industries.

192 CHAIR: Gives example.

200 SHEPHERD: States they did not do that.

202 SEN. DERFLER: Business are trying to do their best and our government threatens them with a \$100,000 lawsuit.

209 SHEPHERD: States the problem they have is preserving a tool for the small number of bad apples in the marketplace.

225 DENNIS RUSSELL, Oregon Homes For The Aged: Acknowledges there was a problem and it has been resolved. Refers to acting in good faith.

249 CHAIR: Closes WORK SESSION on SB 81.
CHAIR: Opens WORK SESSION on HB 3308-A.

WITNESS: Emily Cedarleaf, Multifamily Housing Council
Gary Wright, Plumbers and Pipefitters
John Egge, Oregon State Plumbing and Cooling Contractors

277 CHAIR: Explains there are -2 amendments. Is this in lieu of a previous amendments?

284 JOHN EGGE, Oregon State Plumbing And Cooling Contractors: States WRIGHT's amendment makes sense, but is not willing to hold the bill up for this amendment.

296 EMILY CEDARLEAF, Multifamily Housing Council: States this is the section that will put owner's of rental properties back into the process of being required to get a permit for the work that they are doing; for example tile floors being laid, pulling a toilet and putting back down again which delays the process of getting that rental unit back on line. If we are capable of fixing something for the rental property I don't think that we necessarily should have to get a permit and the inspection to verify that we have done it right.

312 SEN. DERFLER: I don't think there is any point in passing the bill if we are going to add the amendments.

324 CEDARLEAF: Question is do we need and have to pay for a permit. Codes people said this would give us broader power.

MOTION: SEN. DUKES moves to ADOPT the HB 3308-A2 amendments.

VOTE: MOTION FAILS.
AYES: DUKES and LIM
NAY: DERFLER and KENNEMER
EXCUSED: MCCOY

MOTION: SEN. DERFLER moves HB 3308-A to the Floor with a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
EXCUSED: MCCOY
CARRIER: DERFLER

CHAIR: Closes WORK SESSION on HB 3308-A.

373 CHAIR: Opens WORK SESSION on SB 623.

375 CHAIR: Discussion regarding technicalities on amendments and

conceptual amendments.

400 MOTION: CHAIR moves to ADOPT the SB 623
 conceptual amendments.

 VOTE: CHAIR: Hearing no objection, the SB 623
 conceptual amendments are ADOPTED.

430 MOTION: SEN. DUKES moves to ADOPT the SB 623-1
 amendments.

 VOTE: CHAIR: Hearing no objection the SB 623 -1 amendments
 are ADOPTED.

 MOTION: SEN. LIM moves SB 623, AS AMENDED, to the Floor with a
 DO PASS recommendation.

 VOTE: MOTION PASSES.
 AYES: DERFLER, DUKES, LIM and KENNEMER
 EXCUSED: MCCOY
 CARRIER: LIM

460 CHAIR: Closes WORK SESSION on SB 623.

TAPE 86, SIDE B

019 CHAIR: Opens PUBLIC HEARING on SB 942.

020 DARRELL FULLER, Committee Administrator: Gives overview of the bill.

 WITNESSES: Jane Cummins, League of Oregon Cities
 Joe Brewer, Department of Building Codes

022 JANE CUMMINS, League of Oregon Cities: Explains the bill had been
brought before the committee because
there are several cities who since 1993 have been caught between the state
building code and the federal Fair Housing
Act. Explains attempts to get amendments and work done to rectify the
problem.

043 JOE BREWER, Building Codes Administrator, Department of Business and
Consumer Services: Submits written
testimony (EXHIBIT D). Refers to the proposed solution.

050 CHAIR: So cities across the state can expect speedy response from your
organization and a new understanding of the
importance of responding to their plight quickly.

055 BREWER: Absolutely.

057 CUMMINS: The administrator is going to be adopting within the next
year, administrative policy which will start a
process which will allow some communications to occur in a timely fashion.

075 CHAIR: Closes WORK SESSION on SB 942.
 CHAIR: Opens WORK SESSION on SB 439.

099 DARRELL FULLER, Committee Administrator: Gives history of the bill.

107 CHAIR: States ROTHENFLUCH is here to address amendments.

 WITNESSES: David Rothenfluch
 Chris Davie, SAIF

098 DAVID ROTHENFLUCH: Testimony in support of the bill. Refers to:
--contractual basis between SAIF and them;
--Item Five;
--preferred property and casualty insurers;
--eligible appointments;
--professionals in commercial and personal lines;
--150 agents;
--preferred company, deviated rates, 1.00 factor;
--Item Two;
--continuing education factor for agents;
--small and medium employers;
--monopoly;
--contractual form, rather than legislative form.

148 CHRIS DAVIE: Refers to SAIF method of writing was to meet the
legislative goals set for them. Refers to contrary
goals and get back together in a week with ROTHENFLUCH.

 CHAIR: Next week may be the last week I can move a Senate bill. They say
they may resolve without a bill.

170 CHAIR: Closes WORK SESSION on SB 439.

174 (4:20 p.m. CHAIR announces a brief recess.)

194 CHAIR: Reopens the meeting. Announces how we will proceed on the HB
2430.

195 CHAIR: Opens WORK SESSION on SB 969.

DARRELL FULLER, Committee Administrator: Explains history, and nature of the amendments and memo from Legislative Council, TED RUTLINGER regarding Department of Business and Consumer Services levying penalties and referencing a statute to do so. The -2 amendments are before us now, explains what they do. Addresses civil fines.

224 CHAIR: Asks question regarding information given by FULLER.

247 SEN. DERFLER: Objects, states what happens in these cases. It is a very anti-business bill. Refers to OSHA. Getting state government to continually threaten people is not in my line...

281 FULLER: In response to question from CHAIR refers to:
--fines and Department of Consumer and Business Services;
--misdemeanor removed from proposed legislation;
--indigent defense;
--new and used parts;
--\$10,000 penalties;
--civil penalties;
--criminal fines;
--Unfair Trade Practices Act;
316 --restitution and private cause of action.

335 SEN. DERFLER: Question regarding body shop and consumer's right to sue.

338 SEN. DERFLER: Discussion regarding recourse, fines and suit brought by individual.

373 FULLER: Discussion of after-market parts, Department of Justice, small-time violators, fraud network, and large-scale abusers.

445 MOTION: SEN. DUKES moves to ADOPT the SB 969-1 and SB 969-2 amendments.

450 VOTE: CHAIR: WITH OBJECTION from SEN. DERFLER, the SB 969-1 and SB 969-2 amendments are ADOPTED.

TAPE 88, SIDE B

024 MOTION: SEN. DUKES moves SB 969, AS AMENDED, to the Floor with a DO PASS recommendation.

026 SEN. DERFLER: I think this is an anti-business bill.

032 SEN. LIM: I will support to move this bill out, but that doesn't mean automatically I am going to vote for it on the floor. I have the same concern that SEN. DERFLER raised, but I will vote for it to move it out.

035 VOTE: MOTION PASSES.
AYES: DUKES, LIM and KENNEMER
NAY: DERFLER
EXCUSED: MCCOY
CARRIER: KENNEMER

040 CHAIR: Closes WORK SESSION on SB 969.
CHAIR: Opens WORK SESSION on SB 970.

CHAIR: Explains the bill, and history and conversation with JANE CEASE, Motor Vehicles Division regarding educational goal. We will pass on the bill and close the work session.

045 CHAIR: Closes WORK SESSION on SB 970.
CHAIR: Opens WORK SESSION on SB 994.

047 (SEN. DUKES leaves the meeting.)

WITNESSES: Jim Hill, on behalf of Sen. Hamby
Curt Pederson, Department of Administrative Services

028 JIM HILL, on behalf of Sen. Hamby: Submits written testimony in support of the bill (EXHIBIT I). Refers to:
--1 amendments;
--sections eliminated;
--committee recommendations;;
--consolidation on emergency telecommunications;
--conversation with Captain Bob Smith, Oregon State Police;

--Section Two.

060 HILL, continues:
--improving contracts;
--joint information management committee;
--assistant to the Governor and responsibilities;
--Department of Administrative Services;
--preparation of reports;
--Administrative Services contracts of 10 years;
--review large purchase decisions with Joint Information and Management
Technology Committee;
079 --consolidation of HB 3281 and SB 994.

082 CURT PEDERSON, Department of Administrative Services: Testimony in
support of the bill. Addresses:
--consolidation of remaining independent state government networks;
--long-term contracting options and incentives;
--telecommunications strategic rural investments;
--appropriate telecommunications in lieu of travel or traditional
transportation mechanisms;
--commitment to ongoing planning efforts of Oregon Telecommunications
Forum.

099 HILL: Addresses ambiguity in the language.

100 CHAIR: We will adopt conceptually. We are minus a vote; will reopen if
another vote returns.

101 CHAIR: Closes WORK SESSION on SB 994.

110 CHAIR: Opens PUBLIC HEARING on HB 2969-A.

WITNESSES: Emily Cedarleaf

CHAIR: Announces we are in subcommittee.

126 EMILY CEDARLEAF: Refers to history of wrangling between legal aid and
others.

130 CHAIR: Questions if this is a compromise bill.

CEDARLEAF: Refers to:
--Landlord Tenant Coalition;
--changes needed based on occurrences in the interim;
--mobile home park association;
--Legal Aid;
166 --mobile home statutes;
--Landlord/Tenant relationships;
--definitions section;
--Legislative Counsel;

190 CHAIR: Announces SEN. LIM has to leave, we need to close this hearing
and move out some conceptual
amendments then return to this.

194 CHAIR: Closes PUBLIC HEARING on HB 2969-A.

CHAIR: Re-Opens WORK SESSION on SB 994.

CHAIR: Addresses conceptual amendments to the bill.

MOTION: CHAIR moves to ADOPT the conceptual
amendments to SB 994.

VOTE: CHAIR: Hearing no objection the SB 994 amendments are
ADOPTED.

230 HILL: Department of Administrative Services has a fiscal which is
neutral; addresses emergency board transferring
phone funds related to transportation and EDNET.

MOTION: CHAIR moves SB 994, AS AMENDED, to the
Floor with a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
EXCUSED: MCCOY
CARRIER: KENNEMER

CHAIR: Closes WORK SESSION on SB 994.

264 CHAIR: Reopens PUBLIC HEARING on HB 2969-A.

WITNESSES: John VanLandingham, Lane County Legal Aid
Emily Cedarleaf, Multifamily Housing Council
Sharon Fleming Barrett, Affiliated Rental Housing Association of
Oregon, Inc.
Peter Grundfossen, Associated Oregon Housing Authorities
Don Minor, Manufactured Housing Association
Bud Norte, MHOA
Hardy Cave, MHOA

268 SEN. LIM: Asks for clarification on Section 8, regarding late fees.

JOHN VANLANDINGHAM, Lane County Legal Aid: Submits written testimony in support of the bill (EXHIBIT J). States that there are three different ways that a late fee could be charged. Refers to current law; there is no limit on late fees.

(3:30 SEN. LIM leaves the meeting.)

CHAIR: Announces will not be passed out today, work on next week.

345 CEDARLEAF: Addresses legislative intent.

360 VANLANDINGHAM: Wrote bill and legislative intent. Gives makeup of group of six principals in the work group. Refers to experiences leading to decision making and issues to be brought before the legislature after hearing stories relating to implementation of previous legislation.

TAPE 89, SIDE A

010 VANLANDINGHAM, continues: Refers to:
--intent on their part and implementation;
--tenant benefits;
--an example of negotiations;
--late fees in written form;
--landlords versus tenant in the late fee area; pyramiding;
--mobile home statutes cannot stand alone; they are not separate from the act.

052 SHARON FLEMING-BARRETT, Affiliated Rental Housing Association of Oregon, Inc. Submits written testimony in support of the bill (EXHIBIT K).

062 VANLANDINGHAM: States that PETER GRUNDFOSSEN had to leave but wanted him to report that the Public Housing Authority supports the bill.

066 JOHN BRENNEMAN, Manufactured Housing Communities of Oregon. Testimony in support of the bill. We were participants in the work group.

081 DON MINOR, Manufactured Housing Association: Testimony in support of the bill. Refers to the new definition in the bill and another bill previous week and 1991 legislation.

097 BUD NORTE, Mobile Home Owner's Association: Submits written testimony in opposition to the bill (EXHIBIT N). Refers to
--previous supporters and their association;
--tenants;
--rental agreements;
--right of entry;
--drug and alcohol free parks;
--April 18 meeting.

150 HARDY CAVE, Mobile Home Owner's Association: Testimony in opposition to the bill (EXHIBIT O). Refers to:
--legal provisions;
--law enforcement to process;
--two-page summary;
--increase of late payment charges of five percent; states it sounds like usury;
--coalition; not invited to attend.

195 FRANK BURLESON, Coalition of Mobile Home Parks: Submits written testimony in support of the bill (EXHIBIT L). Told Oregon is a landlord state. Refers to:
--OSTA;
--Greenway Association;
--three documents;
--Chapter 90;
--Cedarleaf's testimony;
--tax assessed value;
--homeowners aggregate assessment of 72 million;
--1991 session in particular;
--owners need, not tenants needs;
--owner oriented;
--tabling the bill.

286 SEN. DERFLER: It passed in the house, did you testify?

295 SEN. DERFLER: As an owner, I don't agree with you that we are a landlord state.

309 CHAIR: Asks for certain information to be given to him; specific instances in written form, where they think they have, in the bill, taken something away from them.

329 GENOA INGRAM REED: Testimony in support of the bill.

CHAIR: Closes the PUBLIC HEARING on HB 2969 A.

CHAIR: Adjourns the meeting at 5:30 p.m.

Submitted by, Reviewed by,

Carol A. Smith Darrell W. Fuller
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Testimony on HB 2430-A, Gary Oxley - 2 pages
B - Testimony on HB 2650 A, Alan Bennett, Pioneer Trust - 23 pages
C - Testimony on SB 81, Department of Justice, 3 pages
D - Testimony on SB 942, Building Codes - 1 page
E - Testimony on SB 439, Mike Balanesi - 1 page
F - Testimony on SB 439, Peter McGill - 1 page
G - Testimony on SB 439, Michele A. Huff - 1 page
H - Testimony on SB 439, Clark Lindsay - 1 page
I - Testimony on SB 994, Sen. Hamby - 7 pages
J - Testimony on HB 2969, John VanLandingham, et al - 41 pages
K - Testimony on HB 2969, Sharon Fleming-Barrett - 3 pages
L - Testimony on HB 2969, Frank R. Burleson - 4 pages
M - Testimony on HB 2969, Patricia Schwoch - 4 pages
N - Testimony on HB 2969, W. R. "Bud" Norte - 2 pages
O - Testimony on HB 2969, Hardy Cave - 3 pages