

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes , 58, & 59

MEMBERS PRESENT:

Sen. Bill Kennemer, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler
Sen. Joan Dukes
Sen. William McCoy

MEMBER EXCUSED:

STAFF PRESENT:

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

MEASURES HEARD:

SB 440 Public Hearing and Possible Work Session
SB 455 Public Hearing and Work Session
SB 586 Public Hearing and Work Session
SB 894 Public Hearing and Work Session
SB 685 Public Hearing and Work Session
SB 900 Public Hearing
SB 901 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

004 CHAIR: Opens the meeting at 3:00 p.m. as a subcommittee.

006 CHAIR: Opens PUBLIC HEARING on SB 440.

007 DARRELL FULLER, COMMITTEE ADMINISTRATOR: Gives overview of the bill. There is a fiscal impact.

WITNESSES: Jim Markee, Oregon Collectors Association
Roy F. Newman, Oregon Collectors Association
Jeffrey I. Hassen, Oregon Collectors Association
Cecil R. Monroe, Division of Finance

011 JIM MARKEE, Oregon Collectors Association: (EXHIBIT G). Explains what the bill does. Refers to granting authority to regulate agency by rule.

032 SEN. DERFLER: These amendments delete everything in the bill.

035 MARKEE: Refers to Mr. Newman's written testimony and definitionals section. Explains Inside registration versus outside. Outlines what should be done.

(3:07 SEN. LIM joins the meeting.) (3:08 SEN. MCCOY joins the meeting).

063 MARKEE: Continues regulation outline. The last 13 pages deal with statutory references.

077 CHAIR: Announces are now in full committee for public hearing on SB 440.

080 ROY NEWMAN, Oregon Collectors Association: My written testimony is detailed (EXHIBIT D).

082 JEFFREY I. HASSEN, Oregon Collectors Association: (EXHIBIT E) In response to chair: just got the amendments; gives one area that needs change.

089 MARKEE: The early version of the amendments repealed an ORS; that section was dropped. This is the section of Oregon Law that says for an out-of-state collection agency, the regulatory agency is where someone would go, if they wanted to sue. There is no longer a need for the regulatory agency to be the place to.

107 CHAIR: Can we do that conceptually in committee?

111 MARKEE: We did add a section. States how that part would be in practice.

123 SEN. MCCOY: Does the state of Washington have a similar law? Does California?

130 MARKEE: Responds.

135 CECIL MONROE, Department of Consumer and Business Services: We are the primary regulators. We have no problem with the amendments; have thoroughly examined them.

151 SEN. DERFLER: This is the first time we have had a chance to see these.

158 MONROE: In response to question from SEN. MCCOY regarding the fees. The fee assessed would be at least the fee they would pay if they registered in the state of domicile.

173 CHAIR: Suggests SEN. MCCOY may be addressing a different fee.

178 MONROE: Responds, explains the fees; it has a very immaterial impact and explains.

184 CHAIR: Closes the PUBLIC HEARING on SB 440.

189 CHAIR: Opens WORK SESSION on SB 440.

191 MOTION: SEN. DERFLER moves to ADOPT conceptual amendment to repeal ORS 697.075 in the -3 amendments.

VOTE: CHAIR: Hearing no objection, the amendments are CHANGED.

MOTION: SEN. DERFLER moves to ADOPT the -3 amendments as changed.

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

MOTION: SEN. DERFLER moves SB 440, as amended, to the floor with a DO PASS recommendation.

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

202 CHAIR: Closes the WORK SESSION on SB 440.

205 CHAIR: Opens PUBLIC HEARING on SB 455.

209 WITNESSES: Stephen Kafoury, Professional Land Surveyors of Oregon

210 STEPHEN KAFOURY, Professional Land Surveyors of Oregon: The railroads are happy with this amendment. Next, the -1 amendments prepared by FULLER. There are three sections to these and explains them. I would like to make two changes to the amendments. Gives a hypothetical example referring to section about entering on foot. You would be able to drive if there were existing roadways. There may not be any existing roadways; for instance on rangeland. We would like to add where practical to that section.

268 CHAIR: These are substantial and we would like to study.

271 SEN. MCCOY: Question regarding a time notification.

286 FULLER responds.

(3:20 SEN. DUKES enters the meeting.)

297 KAFOURY: Suggests would like a little latitude to try to work out these parts, pertaining to attempt to do proper thing for access.

324 SEN. DUKES: States what she would like to have entered into the statutes. Refers to regular call from the Chamber of Commerce. This bill gets into private property rights and right-of-recourse claims.

353 SEN. DUKES: Cites situations given during the conversations with the Chamber of Commerce.

386 CHAIR: Suggests to KAFOURY that they move to adopt the -2 amendments, redraft the -3 and the -1 amendments and try to work a compromise with SEN. DUKES.

MOTION: SEN. DERFLER moves to ADOPT the SB 455 -2 amendments

VOTE: CHAIR: There being no objection, the SB 455 -2 amendments are ADOPTED.

424 CHAIR: Closes WORK SESSION on SB 455.

425 CHAIR: Opens WORK SESSION on SB 586.

FULLER: Gives an overview.

WITNESSES: Don Miner, Oregon Manufactured Housing Association
Patrick Lewis, Building Codes Division

TAPE 58, SIDE A

010 DON MINER, Oregon Manufactured Housing Association: Cites the amendments he is concerned about, Refers to the -2 (EXHIBITS I & J).

026 MINER: Refers to personal property not being able to sell "as is." Seller must bring the dwelling up to current building codes. The law has not been enforced. There are cases where they don't know what the legal liability is.

057 MINER: Refers to the addition of a member to the Manufactured Structures and Parks Advisory Board. It is an advisory board, not a policy board.

070 SEN. DUKES: Has question regarding specifics of size. Do they have wheels? You can pull them down the road? Is that legal?

092 MINER: They require permits to move; lists the specifics.

108 SEN. DUKES: Does this do anything to the standards for manufacturing? What is the practical effect?

115 MINER: Permanent structures have a higher standard.

129 PATRICK LEWIS, Building Codes Division: (EXHIBIT A) Explains what the bill tries to do. Current law addresses accessory structure, that applies to park trailers. We already regulate these by the building code. All the bill does is clean up the language.

157 LEWIS: They can build things up to them but they have to be self supporting structures.

158 SEN. DUKES: Concerned about the shortcomings of these dwellings and the uses made of them as permanent dwellings. Worries about their not being protected by the same laws that other structures are.

181 MINER: These were already classed as recreational structures. We are referring to those things built next to them.

204 CHAIR: Refers to a bill in the House in reference to the amendments.

214 LEWIS: We are satisfied with the -2 amendments. All our concerns are addressed in the bill. Adds for the record they are built to a national standard. That standard governs plumbing, electrical, codes, etc. Explains the major difference. The bill will help correct the discrepancy.

260 SEN. DERFLER: Refers to "as is" notice in the agreement. How is consumer notified? There should be some notice in the agreement.

292 SEN. DERFLER: Suggests an addition.

300 CHAIR: Closes PUBLIC HEARING on SB 586.

CHAIR: Opens WORK SESSION on SB 586.

MOTION: SEN. DUKES moves the ADOPTION of the -2 amendments.

VOTE: CHAIR: Hearing no objection the -2 amendments are ADOPTED.

MOTION: SEN. DUKES moves the ADOPTION of a conceptual amendment to SB 586.

VOTE: CHAIR: Hearing no objection, the conceptual amendments to SB 586 are ADOPTED.

MOTION: SEN. DUKES moves SB 586 as amended to the Floor with a DO PASS recommendation.

337 VOTE: MOTION PASSES

AYES: DERFLER, DUKES, MCCOY, LIM and KENNEMER
CARRIER: KENNEMER

340 CHAIR: Opens PUBLIC HEARING on SB 894.

WITNESS: Frank Brawner, Oregon Bankers Association
Steve P. Rodeman, Oregon Credit Union League

348 BRAUNER, Oregon Bankers Association: Submits written testimony (EXHIBIT K). Explains history and reason for the bill and relationship to 1993 legislation.

367 Refers to: Check guarantee card;
--clarification of definition of credit card;
--Federal Consumer Protection Act;
--check guarantee cards;
400 --check guarantee card agreement.

TAPE: 57, SIDE B

008 SEN. DUKES: Asks BRAUNER to supply her with a brochure that spells the above out for her use in transactions.

020 STEVE RODEMAN, Oregon Credit Union League: Wants written testimony (EXHIBIT L) entered for the record. No verbal testimony.

028 CHAIR: Closes the PUBLIC HEARING on SB 894.

029 CHAIR: Opens WORK SESSION on SB 894.

030 MOTION: SEN. LIM moves SB 894 to the Floor with a DO PASS recommendation.

VOTE: MOTION PASSES, unanimously, all members are present
CARRIER: SEN. LIM.

039 CHAIR: Opens PUBLIC HEARING on SB 685.

042 FULLER: Gives an overview of the bill. No statement from Legislative Fiscal office.

WITNESSES: Tom Gallagher, U. S. Generating
Bill Warren, Public Utilities Commission
Ed Finkley, U. S. Generating

047 TOM GALLAGHER, U. S. Generating: (EXHIBIT M) Gives purpose of the bill. Hermiston wants to sell excess to one end user. Proposed by attorneys at Northwest Natural Gas.

078 BILL WARREN, Public Utilities Commission: Refers to prepared testimony (EXHIBIT F). Feels the legislation is entirely appropriate. The commission supports the bill.

088 CHAIR: You support the amendments.

092 ED FINKLEY, United States Generating: We believe that with this amendment the bill is in good shape. States their objective.

111 GALLAGHER: In response to SEN. LIM, explains the term "end user".

118 CHAIR: Closes PUBLIC HEARING on SB 685.

CHAIR: OPENS A WORK SESSION on SB 685.

MOTION: SEN. DUKES moves -1 AMENDMENTS.

VOTE: CHAIR: Hearing no objection the SB 685 -1 amendments are ADOPTED.

MOTION: SEN. DUKES: moves SB 685, as amended, be sent to the Floor with a DO PASS recommendation.

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

140 CHAIR: Opens PUBLIC HEARING on SB 900.

144 FULLER: Gives overview of the bill and the -1 amendments; no revenue impact; have not received fiscal.

151 WITNESSES: Jim Gardner, Alliance of American Insurers
Pete Gorman, Alliance of American Insurers
Representative Jane Lokan
Rich Hein, Oregon State Police
Mary Alice Bjork, Administrative Services
Larry Culbertson, Department of Consumer and Business Services
Lana Butterfield, SAFECO, Insurance
Gene Rappe, SAFECO Insurance
Brian Boe, National Association of Independent Insurers
Fred VanNatta, Liberty Northwest Companies
Bob Rose, State Accident Insurance Fund
Chris Jaine, State Accident Insurance Fund
Tom Bessonette, Oregon Mutual Insurance Company

157 JIM GARDNER, Alliance of American Insurers: Explains the bill. Submits testimony in support of the bill (EXHIBIT C). Similar legislation done in the state of Oregon. Refers to PETER GORMAN. REP. LOKAN will testify as she has a similar bill on house side, wants to be added as a requestor on the bill. SAIF also has minor amendments to be made to the bill.

179 PETE GORMAN, Alliance of American Insurers: (EXHIBIT O) States what the bill does. Refers to limited liability. Insurance fraud is growing represents 11 ten percent of claims paid out. FBI Director testified that insurance fraud is attracting organized crime. Refers to cocaine dealers activity in California.

212 GORMAN: Other states have moved from misdemeanor to a felony. Wishes us to follow for our protection. Believes they are heading for weak states. Refers to where most of the fraud occurs. In the typical case the perpetrator chooses a vehicle to use as a victim, creates an accident, files a claim. These are done in collusion with medical mills. This jeopardizes innocent drivers.

253 --Refers to slip and fall liability claims;
--padded worker's compensation claims;
--white-collar crime; District Attornys don't have time to prosecute;
265 --the industry is passing on to other consumers in the way of rates;
--are setting up national data bases to coordinate efforts; the bill will make it easier to detect and prosecute.

304 CHAIR: How similar is this to other states?

321 SEN. DERFLER: What does this allow you to do that you can't do today?

325 GORMAN: There is now no current statute to cover. You are also facing bad faith claims and liable suits.

349 SEN. DERFLER: Where in the bill does it allow you to do something different from what you can do today?

366 REP. JANE LOKAN: Submits written testimony in support of (EXHIBIT P). Heard from two constituents who are beginning to encounter this to a great extent. Legislative Counsel said this would be a first. Cites estimates of amounts involved in these fraud cases. Obtaining documentation is difficult; carriers are starting to prosecute.

TAPE 58, SIDE B

025 REP. LOKAN: Refers to numbers of cases, no action is taken so numbers are hard to come by.

014 CHAIR: You would like to be included as requestor.

049 GORMAN: Prosecutors to go after the perpetrators. Refers to practitioners. Typically in states that don't have these it is difficult to pursue. This allows prosecutor to include fraud mills. Refers to section that defines what is involved in a fraudulent act. Gives other areas where the bill tightens up what is an insurance fraud act. Refers to definition of conspiracy to the fraud (people who benefited by the act). The bill enables courts to take action against perpetrator.

062 RICH HEIN, Oregon State Police: Director of Investigative Services, Oregon State Police: Submits written testimony in support of the bill (EXHIBIT B). Gives overview of the bill and what it provides.

092 MARY ALICE BJORK, Administrative Services: Testimony in support of the bill. States Nevada has had a great influx of crime from California. Hopes the bill will help premiums come down.

CHAIR: Addresses civil and criminal penalties.

119 BJORK: In response to CHAIR, civil penalties have been looked at; are consistent.

122 HEIN: The penalties are appropriate.

126 LARRY CULBERTSON, Department of Consumer and Business Services: Administrative penalties that are covered in number 7 are okay. I can't address criminal penalties.

134 SEN. LIM: Question regarding penalties. Feels the criminal penalties are too low. They commit fraud for \$25,000-50,000 and get off with penalty of \$1,000-5,000.

142 CULBERTSON: Agrees. Explains what can be done under the codes.

150 SEN. LIM: We have a huge tracking system. Is there any way to keep track of the people who are suing many different companies. Feels insurance companies should be more aggressive and wake up and do something.

171 CULBERTSON: The insurance companies recognize that responsibility and they are looking for help now.

175 LANA BUTTERFIELD, Oregon Professional Insurance Agents and SAFECO: Introduces Jim Rappe.

(4:43 SEN. MCCOY returns to the meeting.)

188 JIM RAPPE, SAFECO Insurance Company: (EXHIBIT R). Addresses the laws that cover the insurance fraud cases. Our state is one of few western states with weak laws. Phony claims do cost all premium payers.

212 BRIAN BOE, National Association of Independent Insurers: In support of the bill.

227 FRED VANNATTA: Testimony in support of the bill.

CHRIS JAINE, State Accident Insurance Fund: Written testimony, (Exhibit ?). Has suggestions for the amendments. Working and failure to report should be added. There is no specific provision for fraud; we use crime by deception.

263 BOB ROSE, State Accident Insurance Fund: Addresses employer payroll fraud and workmen's compensation. Criminal prosecutors are reluctant to use because it is not a part of the statutes.

283 SEN. DERFLER: Agrees in response to CHAIR.

288 CHAIR: We have no adverse testimony.

311 SEN. LIM: Why wait three months? Can we use emergency clause?

320 CHAIR: Closes PUBLIC HEARING on SB 900.

CHAIR: Opens PUBLIC HEARING on SB 901.

FULLER: No fiscal, no subsequent referrals.

WITNESSES: Al Thompson, Standard Insurance Company and American Council of Life Insurance
Mary Alice Bjork, Department of Consumer and Business Services, DCBS

321 AL THOMPSON, Standard Ins. Co., and American Council of Life Insurance. Submits written testimony (EXHIBIT S). Gives examples of annuities. This adds one more option for payment of income; a fixed period of time. Have no knowledge of opposition.

370 SEN. MCCOY: Is there a representative from the insurance commission present?

380 MARY ALICE BJORK, Department of Consumer and Business Services: We worked with the writers.

390 SEN. MCCOY: How is this going to help the buyer?

396 BJORK: Explains the way the code reads

TAPE 59, SIDE A

005 CHAIR: Closes PUBLIC HEARING on SB 901

010 CHAIR: Opens WORK SESSION on SB 901

015 MOTION: SEN. DERFLER moves SB 901 to the Floor with a DO PASS recommendation.

020 VOTE: MOTION PASSES.
AYES: DERFLER, DUKES, LIM and KENNEMER
NAY: SEN. MCCOY
CARRIER: SEN. DERFLER

025 CHAIR: Closes WORK SESSION on SB 901.

027 CHAIR: Gives details regarding problems coming up for next weeks meetings; will be adding 45 minutes to them. If not done by 5:45 we will lay over.

CHAIR: Adjourns the meeting at 5:00 p.m.

Submitted by, Reviewed by,

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

EXHIBIT SUMMARY:

A - Testimony, SB 586, Patrick Lewis - 1 page
B - Testimony, SB 900, Rich Hein - 1 page
C - Proposed -1 amendments to SB 900, Jim Gardner - 1 page
D - Testimony, SB 440, Roy Newman - 7 pages

E - Testimony, SB 440, Jeffrey Hassen - 2 pages
F - Testimony, SB 685, Will Warren - 1 page
G - Testimony, SB 440, Jim Markee - 1 page
H - Proposed amendments, SB 455, Sen. Dukes - 1 page
I - Testimony, SB 586, Don Miner - 5 pages
J - Testimony, SB 586, Don Miner - 1 page
K - Testimony, SB 894, Frank Brawner - 4 pages
L - Testimony, SB 894, Steve Rodeman - 1 page
M - Testimony, SB 865, Tom Gallagher - 3 pages
N - Testimony, SB 900, Judith Fitzgerald - 1 page
O - Testimony, SB 900, Pete Gorman - 1 page
P - Testimony, SB 900, Rep. Jane Lokan - 1 page
Q - Testimony, SB 900, Peter Kepfer - 5 pages
R - Testimony, SB 900, Jim Rappe - 1 page
S - Testimony, SB 901, Al Thompson - 1 page