

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 82

MEMBERS PRESENT:

SEN. NEIL BRYANT, Chair
SEN. RANDY MILLER, Vice-Chair
SEN. KEN BAKER
SEN. DICK SPRINGER
SEN. SHIRLEY STULL

MEMBER EXCUSED:

SEN. JEANNETTE HAMBY
SEN. PETER SORENSON

STAFF PRESENT:

MAX WILLIAMS II, Committee Counsel
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

SB 484 - PUBLIC HEARING
SB 603 - PUBLIC HEARING

SB 611 - PUBLIC HEARING

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

WITNESSES:

Robert Ziemer, Oregon Institute for Justice
Charlie Davis, Judicial Fitness Commission
Agnes Peterson, Judicial Fitness Commission
Richard Page, Judicial Fitness Commission
Pamela Knowles, Executive Director, Judicial Fitness Commission
David Fidanque, American Civil Liberties Union of Oregon
Helen Salem, Certified Public Accountant, United We Stand America
Wallace Carson, Supreme Court Justice, Oregon Judicial Committee
Roger Weidner, Citizens for a Corrupt Free Oregon
Bob Chandler, Editor, Bend Bulletin

006 CHAIR BRYANT: Explains Informational Meeting previously held on bill.

040 ROBERT ZIEMER, Oregon Institute for Justice: Testifies both pro and con

and submits written testimony on SB 603 [EXHIBIT A]. Submits written testimony from DON WARNER [EXHIBIT B]

070 - believes present Commission on Judicial Fitness has little value and should be abolished

113 - believes there should be a schedule of fines beyond sanction and

suspension provision

137 - don't understand Section 8
150 - Section 12, believes complaints should go straight to the commission

202 CHARLIE DAVIS, Chair of Judicial Fitness Commission: Testifies and
submits written testimony in opposition to SB 603 [EXHIBIT D]. Describes
case of judge's recall.
246 - believes it is time to review commission's role for future

295 AGNES PETERSON, Attorney, Vice Chair of Judicial Fitness Commission:
Testifies and submits written testimony in opposition to SB 603 [EXHIBIT
C].

360 RICHARD PAGE, Past Chair of Judicial Fitness Commission: Testifies and
submits written testimony in opposition to SB 603 [EXHIBIT R]. Oregon has
a clean judiciary.
388 - discusses constituency on commission
450 - describes past judicial review cases

483 SEN. BAKER: Are your actions open to public scrutiny?

484 PETERSON: No, they are not.

TAPE 80, A

038 PAMELA KNOWLES, Executive Director of Judicial Fitness Commission:
Testifies and submits written testimony on SB 603 [EXHIBIT S]. Judges, who

are not licensed, are not included in confidentiality issues for
individuals who are licensed by the state.

043 - we have specific statute that causes all records to be confidential

055 SEN. BAKER: What is the policy once commission takes official action?

060 KNOWLES: The information becomes public when we hold a public hearing.

117 DAVID FIDANQUE, American Civil Liberties of Oregon: Testifies in
opposition to SB 603 due to separation of powers issue as Supreme Court has

power to remove sitting judge.

164 - bills flaw is it allows governor to control body that has ability to
remove judges and supreme court has limited scope to review
that action

205 HELEN SALEM, Certified Public Accountant, member United We Stand
America:

Testifies and submits written testimony on SB 603 [EXHIBIT Q].

266 CHAIR BRYANT: Informs witnesses how to proceed if they have a formal
complaint to file.

316 WALLACE CARSON, Chief Justice Oregon Supreme Court: Testifies and takes
no position on bill with the proposed amendments [EXHIBIT E]. Took a poll
of 11 members of Executive Committee of Oregon Judicial Conference and 6
members opposes amendments.

335 ROGER WEIDNER, Attorney, Citizens for a Corrupt Free Oregon: Testifies
in opposition to SB 603.

402 - sees a need to create an independent judicial system to openly review
conduct

401 ROBERT CHANDLER, editor BEND BULLETIN: Testifies in favor of SB 603.

460 - governors generally appoint people with care
473 - present commission is unbalanced

Closes PUBLIC HEARING on SB 603

Opens PUBLIC HEARING on SB 484

TAPE 79, B

WITNESSES: Jim Mountain, Attorney, Oregon Society of Certified Public
Accountants
Chuck O'Kelly, Dean, University of Oregon Law School
Myron Fleck, Oregon Certified Public Accountant
Stephen Kafoury, Architects Council of Oregon

060 JIM MOUNTAIN, Attorney, Oregon Society of Certified Public Accountants:

Testifies and submits written testimony in support of SB 484 [EXHIBIT F]
with proposed amendments [EXHIBIT G].

100 CHUCK KELLY, Dean, University of Oregon Law School: Testifies in
support of SB 484 on limited liability partnerships (LLP).
117 - limited ability is the rule for investors
142 - general partnership is very informal, and rules are understood by
judges

160 MYRON FLECK, Oregon Society of Certified Public Accountants: Testifies
in favor of SB 484. LLP is a new twist on business.
209 - LLP great way to start up business as it has lower start up costs

250 CHAIR BRYANT: Do you have a revenue ruling from IRS on LLP's?

260 FLECK: Not yet.

300 SEN. SPRINGER: Do you know what the position of the relevant State Bar
Committee is on this bill?

315 MOUNTAIN: The Bar Business Section Executive Committee voted not to
take a position on this bill.

347 SEN. SPRINGER: Are there any other states which have as board a LLP
law?

350 O'KELLY: More recent statutes make it available to all businesses.

380 SEN. SPRINGER: What is the benefit to the public?

386 O'KELLY: It is a more efficient, less costly operation of business.
400 - it protects innocent partners from wrong doing of someone they are
associated with

425 SEN. SPRINGER: Expresses concern over risk to public of greater
frequency of uncompensated loss.

455 MOUNTAIN: Bill prohibits use of assumed business name that doesn't put
creditors on notice that this is an LLP.

460 - partnership is accountable for any of partner's negligence

TAPE 80, B

033 SEN. BAKER: Expresses concern with broad exemption of liability in

bill.

040 O'KELLY: It tracks law of New York statute.

052 SEN. BAKER: Aren't we in effect abolishing partnerships?

056 O'KELLY: You could say partnership have already been abolished because we enacted LLC's.

072 CHAIR BRYANT: To summarize, the tax consequence of being an LLP that is different from LLC is some of the unresolved issues with IRS on how to tax LLC's.

085 STEPHEN KAFOURY, Architects Council of Oregon: Testifies in support of SB 484. This is an economic development bill which benefits citizens of Oregon.

123 CHAIR BRYANT: Presently, you can be held individually liable in partnership or corporation for non-compliance when don't provide workers compensation, what affect will statute have on that?

129 MOUNTAIN: I don't believe this statute is affected by statute you refer to. This is treated as partnerships are treated.

140 CHAIR BRYANT: If you are liable as partnership under workers compensation laws for premiums as LLP you would have same responsibility.

142 MOUNTAIN: That is correct.

160 CHAIR BRYANT: I will have counsel check law and confirm that is covered or will bring back amendment with additional language.

Submitted for the record testimony from Kent Aldrich [EXHIBIT H].
Submitted for the record testimony from Scott Gallent [EXHIBIT T]
Submitted for the record testimony from Donald Douglas [EXHIBIT U]

Closes PUBLIC HEARING on SB 603

Opens PUBLIC HEARING on SB 611

WITNESSES: Paul Romain, Attorney, Oregon Beer Wine Distributors Association
Keith Burns, Attorney, Valley Wine
Gary Conklin, Oregon Wine Association
Peter Jensen, Oregon Wine Association
Jim Neill, Oregon Wine Association
Sandra Bishop, Wine Institute
Joe Dobbs, owner, Marquam Hill Vineyard
Jerome Chiavara, Oregon Brewer's Guild, Full Sail Brewing Company
Fred Bowman, Portland Brewing Company
Pamela Conder, owner small wholesale business
Kip Christensen, owner small wholesale business
Ed Metelius, President, Columbia Distributing Company

200 PAUL ROMAIN, Oregon Beer Wine Distributors Association: Testifies and submits written testimony in favor of SB 611 [EXHIBIT I]. This would add

wine to that all ready covered under malt beverage franchise law.

230 - wineries can have multiple distributors and can distribute themselves
236 - distributors used to take things based on oral contract or a handshake
270 - gives past history of several distributors
300 - distributors are intimidated by their suppliers as they can cancel if
you don't do what they want without compensation

320 - bill states all agreements must be written and need good cause for
termination
375 - bill prohibits supplier from doing certain things
395 - puts burden on supplier to show it acted reasonably
445 - are considering doing an volume exemption for wine, or a year's
exemption
475 - only legitimate argument against bill is, why does government say we
need a contract

TAPE 81, A

050 CHAIR BRYANT: You mentioned possible amendments have you asked that
they be written?

057 ROMAIN: We just received them today.

066 KEITH BURNS, Attorney, Valley Wine, Testifies and submits written
testimony from PHILIP HATCH [EXHIBIT K] and RAY LAKEY [EXHIBIT L] and his
own testimony in opposition to SB 611 [EXHIBIT J].

100 - relates past history
150 - cites material from exhibits
185 - all federal laws are mirrored in Oregon law so there is no reason to
have a contract
214 - franchise agreement is breeding ground for litigation
220 - this is a bill for a specialized group

240 GARY CONKLIN, Oregon Wine Grower's Association: Introduces Peter Jensen
and Jim Neill.

248 PETER JENSEN, President of Oregon Wine Grower's Association:
Testifies and submits written testimony in opposition to SB 611. [EXHIBIT
M] Explains composition of OWG.

If laws passes it wouldn't be possible to severe relationship with
distributors.

278 JIM NEILL, Legal Counsel for Oregon Wine Grower's Association:
Testifies and submits written testimony in opposition to SB 611 [EXHIBIT
N].

340 - continues with testimony

358 SANDRA BISHOP, Wine institute: Testifies and submits written
testimony in opposition to SB 611 [EXHIBIT O].

401 - explains differences between wine and malt beverages
453 - the need for distributors is increasing not decreasing
472 - wine marketing is very different from malt beverages

TAPE 82, A

035 JOE DOBBS, Owner, Marquam Hill Vineyard: Testifies in opposition to SB
611.

043 - sees bill as attempt to limit competition

056 SEN. STULL: What means do you use to market and distribute your
product?

060 DOBBS: We used three different distributors. We still need a
distributor to the wholesale market, as we get lost with big distributor.

090 - sees bill as putting greater constrictions upon small producer

113 JEROME CHIEVARA, Current President of Oregon Brewer's Guild and Vice
President of Full Sail Brewing Company: Testifies and submits written
testimony on SB 611 [EXHIBIT P].

122 - current franchise law isn't fair

160 FRED BOWMAN, Vice President, Portland Brewing: Testifies and relates past problem with a distributor who over night raised prices above competition and brewery lost accounts.

200 PAMELA CONDER, Co-owner of small wholesale business: Testifies to represent another side of wholesaler issue. We believe bill will hurt small wineries and inhibit other distributors from starting up.

226 KIP CHRISTENSEN, Co-owner of small wholesaler business: Testifies on SB 611. Wineries usually are represented by one wholesaler. Franchise law will make it difficulty for small winery.

250 ED METELIUS, President, Columbia Distributing Company: Testifies on SB

611.

- need to meet needs of small manufacturers

300 - large wine supplier is larger than large distributor so they hold upper hand

317 - need to find middle ground

328 CHAIR BRYANT: Adjourns meeting at 5:50 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER Max Williams II
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 603 - Robert Ziemer - 5 pages
B - Testimony on SB 603 - Donald Warner - 5 pages
C - Testimony on SB 603 - Agnes Peterson - 12 pages
D - Testimony on SB 603 - Charles Davis - 25 pages
E - Proposed Amendment to SB 603 - Staff - 1 page
F - Testimony on SB 484 - Jim Mountain - 7 pages
G - Proposed Amendments to SB 484 - Jim Mountain - 4 pages
H - Testimony on SB 484 - Kent Aldrich - 3 pages
I - Testimony on SB 611 - Paul Romain - 3 pages
J - Testimony on SB 611 - Keith Burns - 26 pages
K - Testimony on SB 611 - Keith Burns - 1 page
L - Testimony on SB 611 - Keith Burns - 1 page
M - Testimony on SB 611 - Pete Jensen - 1 page
N - Testimony on SB 611 - Jim Neill - 2 pages
O - Testimony on SB 611 - Sandra Bishop - 16 pages
P - Testimony on SB 611 - Jerome Chievara - 2 pages
Q - Testimony on SB 603 - Helen Salem - 15 pages
R - Testimony on SB 603 - Richard Page - 1 page
S - Testimony on SB 603 - Pamela Knowles - 1 page
T - Testimony on SB 448 - Scott Gallent - 1 page
U - Testimony on SB 448 - Donald Douglas - 1 page