

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL  
ADMINISTRATION

May 12, 1993           Hearing Room 357 1:00 p.m.   Tapes 108 - 109

MEMBERS PRESENT:   Rep. Tom Brian, Chair Rep. Ken Baker Rep. Jim Edmunson  
Rep. Tom Mason

STAFF PRESENT:           Holly Robinson, Committee Counsel Carole  
Souvenir, Committee Counsel Sarah May, Committee Clerk

MEASURES CONSIDERED:           HB 2030 - Relating to attorney fees HB  
3233 - Relating to law enforcement HB 2062 - Relating to student records

[--- Unable To Translate Graphic ---]

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. [--- Unable To Translate  
Graphic ---]

TAPE 108, SIDE A

004   CHAIR BRIAN:   Calls the meeting to order at 1:15 p.m.

PUBLIC HEARING ON HB 3233

(HB 3233 Adds county service district authorized to provide enhanced  
law enforcement services to definition of "law enforcement unit."  
[EXHIBIT A - F])

Witnesses:   David Bennett, Sunriver Owners Association Michael Levin,  
Sunriver Owners Association Scott Albert, Sunriver Fire Chief Pat  
Fordney, Black Butte Ranch Service District Steve Bennett, Board on  
Public Safety Standards and Training

012   DAVID BENNETT, SUNRIVER OWNERS ASSOCIATION: Testifies in support  
of HB 3233. Suggests and summarizes two amendments to provide training  
for

private police and fire forces.

048   REP. MASON:   Why doesn't Sunriver become a city?

051   MICHAEL LEVIN, SUNRIVER OWNERS ASSOCIATION: Testifies and  
submits written testimony in support of HB 3233. (EXHIBIT G) We can't  
become a

city because we don't meet goals for low income housing and urban growth  
boundaries. 80% of our residents, don't live there.

071 REP. MASON: The authority of your police comes from deputy commissions from Deschutes county?

072 LEVIN: There are three types of deputies. 1) full-time deputies paid by the county 2) reserve deputies 3) special deputies that have full

power of arrest, and are often called to help with Deschutes county situations.

082 REP. MASON: Does the sheriff have hiring and firing power?

083 LEVIN: The requirements for our personnel are that they have to receive an approval that they are a special deputy, be interviewed have a

background check, they and have to be deputized. 092 REP. MASON: If this bill passes, your police officers would be certified?

094 LEVIN: Correct.

095 REP. MASON: Would they be considered a privately paid for police force?

100 LEVIN: Currently, yes. We are a non-profit organization, but provide all municipal type services to the community: fire, police, and

emergency medical services. (EXHIBIT H)

130 REP. MASON: Are your pay rates the same as Deschutes county deputies?

132 LEVIN: They were two years ago, but Deschutes county had bargained for higher wages. We are again trying to reach parity with those salaries.

135 REP. MASON: What about Public Employees Retirement System (PERS), is there a comparable retirement?

137 LEVIN: We are not eligible for PERS. Because of IRS standard, there is a preclusion for any non-profit organization to participate in any kind of qualified differed compensation plan by having the employer

contribute.

143 REP. MASON: The Sunriver owners are paying property taxes?

144 LEVIN: Correct.

145 REP. MASON: Those property taxes are going to pay for regular sheriff deputies too?

146 LEVIN: Sometimes Deschutes county is without a deputy, so we step in. Continues testimony. 168 REP. MASON: You are paying property tax, but you are not getting the service or protection. Where is the money going? 170 LEVIN: The Deschutes county portion from Sunriver is small. We rely on the Deschutes sheriff for detective service,

investigation services,

jails, district attorney, and juvenile justice. The sheriff isn't able to provide 24 hour service to us.

184 CHAIR BRIAN: There is double taxation in most counties. Outside the cities there is enhanced special service district, and those people pay separate from the general county tax base.

197 REP. MASON: You want benefits of being a city, but you don't want to incorporate?

205 LEVIN: Sunriver is surrounded by U.S. forest service land on three sides. This does not qualify for low income housing. The only other

area we have is zoned forest. Because of Land Conservation and Development Commission (LCDC) restrictions, those boundaries cannot be changed. The LCDC goals are 1) there has to be future growth for low income housing and 2) there has to be an urban growth boundary. This precludes any opportunity for low income housing or for urban growth boundaries to be considered. The incorporation committee of Sunriver filed a petition, but it was denied by Deschutes county. It would be at least two years before municipality could occur. An incorporation of Sunriver is highly unlikely because of LCDC goals.

245 CHAIR BRIAN: The purpose of -1 amendments is to access training?

261 REP. BAKER: Wasn't there another bill this session on private access to Board of Public Safety Standards and Training (BPST)?

264 REP. EDMUNSON: BPST agrees that the bill is workable with a January 1994 sunrise.

269 REP. BAKER: They had space in the academy, and there would be tuition paid for by the sponsoring body.

272 CHAIR BRIAN: It is fair to have tuition paid.

274 LEVIN: BPST is funded by traffic tickets. Cites last page of testimony, EXHIBIT G. We are contributing to the Deschutes county

revenue source.

304 REP. MASON: Who gets the other half of the ticket?

311 LEVIN: We don't get any of it.

323 REP. MASON: Usually the arresting agency gets half, and the trying agency gets half. Who is getting the other half?

327 LEVIN: The arresting half would go to Deschutes county. We write the ticket, but are not reimbursed for it.

332 REP. MASON: Do you pay your officers overtime for court appearances?

333 LEVIN: Time and a half.

339 REP. MASON: You're losing a lot of revenue. If you were incorporated, you would be getting all of that revenue.

355 LEVIN: There is a need for a law enforcement presence, but because of budget restrictions, the ability of Deschutes county personnel is not

there. Our only choice is to go without, or augment. It is very necessary that we are able to get the same training that any other municipal, state, or county law enforcement would have.

375 REP. EDMUNSON: The bill's focus is too narrow to address the problem of funding law enforcement in small communities. Could change the

definition of "county" to include service districts within it whose officers operate as deputies.

433 LEVIN: We are not a county special service district, but we do have a unique situation with having special deputies and being private.

446 REP. EDMUNSON: What if made the term "county" to include any special units deputized for purpose of law enforcement?

TAPE 109, SIDE A

010 LEVIN: That would be fine. The reserve deputies would also have access to BPST and that would be practical.

021 REP. EDMUNSON: Does a special deputy mean something in law?

027 LEVIN: The way the commissions are issued, powers are granted from the sheriff to our personnel and specifically focused on "special deputy".

It is common from state to state to have special deputies that back up the sheriff's forces. The special deputy status is assigned to people who are providing ongoing deputy sheriff services, however are not funded by the sheriffs department.

046 REP. EDMUNSON: Does Black Butte also have "special deputies"?

049 LEVIN: At one time, they were special deputies, but I don't know what they are now.

052 CHAIR BRIAN: What about the funding impact to BPST, what is

your request?

056 LEVIN: The Deschutes county sheriff could send our officers to BPST, and they could go through the training, but at the end, they wouldn't be given a certification number nor would they be certified. The Sunriver

owner's association would have to pick up expense. We would like to be eligible for BPST training and then be certified as police officers. If they didn't become a certified police officer, they would have to go through training every two years.

076 CHAIR BRIAN: Do you intend to pay for it?

066 LEVIN: We don't want to be treated differently because we are paying for the same training. Continues and summarizes testimony on behalf of

their fire district.

124 REP. EDMUNSON: Shouldn't we wait until SB 155, goes through?

126 LEVIN: We were told that this is the time to do it. In SB 155, "private" was added, and that committee did not like that. We are

unique, and we do have the need. We were told that SB 155 might not be passed, so this was our way to try to get this into effect.

142 CHAIR BRIAN: This would be full time paid fire service employees who are engaged in mutual aid agreements?

145 SCOTT ALBERT, Sunriver FIRE CHIEF: We are viewed as a public department, and we respond to mutual aid agreements quite often. But we are not paid for them.

153 CHAIR BRIAN: Are these agreements in writing?

154 ALBERT: Yes. Included in 911 emergency services, we have mutual agreements with Bend, LaPine, and any other areas where we are needed if they have mutual aid agreements with us. Our people actually teach

courses, but can't be certified. Continues with testimony.

185 REP. EDMUNSON: Where is SB 155 in the process, and does it fit in with HB 3233?

189 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 155 has been passed out of the Senate. 193 REP. EDMUNSON: Uncomfortable with amending bill that isn't in the House. Could insert SB 155 into HB 3233, and send back to Senate.

208 CHAIR BRIAN: The relating clause to SB 155-2 does not relate to HB 3233. We can request that SB 155 be assigned to this committee.

225 BENNETT: We are not trying to amend SB 155, we would like to

make an amendment to HB 3233 which would not be effective unless SB 155 passes.

233 CHAIR BRIAN: Problem is adding fire service language even with the contingency, it is outside of the relating clause of HB 3233.

246 LEVIN: Cites proposed amendment to SB 155.

269 CHAIR BRIAN: Can put in additional language if we get the bill.

272 REP. EDMUNSON: Pg. 2, lines 9-10, HB 3233, should the definition of public and private safety agency include private firms providing fire

fighters? Need to make sure it is consistent with the statute.

294 PAT FORDNEY, BLACK BUTTE RANCH SERVICE DISTRICT: Testifies and submits written testimony in support of HB 3233. (EXHIBIT H)

429 CHAIR BRIAN: Are your roads accessible to the public?

431 FORDNEY: We still have the gates, but they are considered public as far as enforcement of the vehicle code. We have organized a municipal body

within the county, and we pay extra taxes. To get the services we want, we need to pay for it.

TAPE 108, SIDE A

014 REP. MASON: How can it be a "public road", and not be a public road with the gates?

025 FORDNEY: We are willing to pay for the police protection that we have. We do have a legitimate problem with crime.

043 REP. BAKER: You are not a private police unit. Why aren't your police officers appointed as deputies sheriffs of the county?

047 FORDNEY: Our officers do operate with a deputy commission from the sheriffs office.

050 REP. BAKER: You're paying taxes and are a sub-unit of government. If you report to the county commissioners, they can deputize your sheriffs and your eligible for BPST.

054 FORDNEY: BPST would like it more clear.

056 REP. BAKER: The county commissioner could deputize your people, so why don't you have police officers labeled sheriffs at the county level?

061 FORDNEY: The only way to get the training and accreditation through BPST is by BPST recognizing that they can be trained that way.

064 REP. BAKER: If the county were to appoint deputy sheriffs and assign them to Black Butte, then they are eligible.

069 REP. MASON: Counties should just give you the deputies because you are already paying for them. The officers you're getting, you're

getting

without PERS. County gets traffic ticket money.

094 FORDNEY: Our officers are on PERS, they are a public body.

098 REP. BAKER: Who pays for your officers?

099 FORDNEY: We are a public body that is a county service district. It is paid through taxes.

104 REP. BAKER: You are paying PERS, but you are not deputized sheriffs?

106 FORDNEY: We are deputized by Deschutes and Jefferson county.

107 REP. MASON: But you are not county employees?

108 FORDNEY: No. We want this bill, so that we are qualified like a police unit of a city.

112 REP. MASON: Why don't you become a city?

115 FORDNEY: The county cannot provide concentrated services in a large area.

122 REP. MASON: The county owes you the service and you aren't getting it.

144 STEVE BENNETT, BOARD ON PUBLIC SAFETY STANDARDS AND TRAINING (BPST): The board has instructed Black Butte that if they wanted to receive

services from us, they would need to be specifically defined under law enforcement unit under police officer in our act. We were acting on the advice of the attorney general.

159 CHAIR BRIAN: Can you be police officer, under the definition of police officer and therefore qualify for training under BPST?

162 S. BENNETT: No. In order to be a police officer and eligible for training, you have to be employed full time by a law enforcement unit.

166 CHAIR BRIAN: If we expanded the meaning of police officer to say that a police officer is also one who is employed by a private entity and

commissioned as a special deputy by a county sheriff, would they be eligible, and do you support that?

175 S. BENNETT: What makes a person eligible for certification, is that they have to be employed by law enforcement unit. So adding wording to

the definition of police officer wouldn't solve the problem. It would be a big change to provide a public service support to a private entity.

195 CHAIR BRIAN: Wasn't there going to be some activity from two years ago to change this?

198 S. BENNETT: With regard to entity?

201 CHAIR BRIAN: Yes, having an entity be eligible for BPST training and certification.

203 S. BENNETT: Black Butte was informed that if they wanted to fall within those services, we would do that.

213 REP. EDMUNSON: Our task is to determine if the public policy of the state justifies that change. Where is that unemployment full-time by

law enforcement unit requirement?

242 S. BENNETT: That is either in statute, or in the rule.

245 REP. EDMUNSON: The definition of police officer, is on pg. 2 of HB 3233, lines 3-4. It identifies a police officer as someone who is

employed full time as a police officer. Are the terms "reserved and special deputy" broken down in a statute or rule?

283 S. BENNETT: It is up to the individual counties. Full-time law enforcement unit language is in ORS 181.610, and HB 3233 it includes

police officer definition.

306 REP. EDMUNSON: Changing the definition of police officer to also include a person employed by a private firm for law enforcement purposes and deputized by the sheriff, would address the concern that you raised?

316 CHAIR BRIAN: ORS 181.640 discusses what BPST does and how it trains police officers. ORS 181.610 Sub 7, says what a police officer is and

that is a person of a law enforcement unit. Discusses "also is" language. You would have a concern about broadening the definition of police officer to include a person employed full time with a private entity, who is commissioned as a special deputy by a county sheriff?

337 S. BENNETT: Correct. Concerned where the language law enforcement unit and police officer are used in the other statutes. Concerned with where else this might apply.

346 CHAIR BRIAN: If were to change definition of police officer, for the purposes of accessing training, it might become very narrow.

354 S. BENNETT: There is a distinction between training and certification. They do have access to training now, just not



certification.

Certification has other criteria.

365 CHAIR BRIAN: What does certification mean once you have it?  
Does it change your authority?

368 S. BENNETT: No, it does not change. It changes relationship  
with the state in terms of requirements for maintaining certification.

388 REP. EDMUNSON: Discusses term "police officer" and how that  
might effect the statutes.

399 CHAIR BRIAN: There are ways that we can more narrowly define  
these terms to their unique situations. Concerned about giving the  
private

security businesses the same responsibility as police officers.

428 S. BENNETT: We are in support of HB 3233 as it stands, but not  
the private entity examples.

432 CHAIR BRIAN: What would be the ramifications of becoming a  
service district like Black Butte?

445 REP. EDMUNSON: Cites Sunriver, EXHIBIT G.

463 REP. BAKER: Clarify the cost for Sunriver for sending  
officers to BPST?

467 CHAIR BRIAN: How from the BPST standpoint, what would the fiscal  
impact be on the bill as written and what would your expectations  
be if

amended?

476 S. BENNETT: We provided a fiscal impact that would be the worst  
case scenario, if all had to go through all the training.

TAPE 109, SIDE B

WORK SESSION ON HB 2062

048 MOTION: REP. BAKER: Moves to ADOPT HB 2062-3 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Rep.  
Mason is excused.

056 MOTION: REP. BAKER: Moves HB 2062 AS AMENDED TO FULL COMMITTEE  
with a DO PASS recommendation.

VOTE: 3-0 MOTION PASSES AYE: Baker, Edmunson, Brian NO: None  
EXCUSED: Mason

RE-OPENS PUBLIC HEARING ON HB 3233

069 LEVIN: Sunriver has considered a formation of a special county  
service district, in our case one entity administering all

municipal type

services were more practical, and cost effective.

081 REP. BAKER: Adjourns the meeting at 2:55 p.m.

Submitted by:

Reviewed by:

Sarah May  
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed Amendments to HB 3233 - Committee Counsel - 9 pages B - Testimony on HB 3233 - Committee Counsel - 6 pages C - Testimony on HB 3222 - Committee Counsel - 1 page D - Testimony on HB 3233 - Committee Counsel - 1 page E - Testimony on HB 3233 - Committee Counsel - 6 pages F - Testimony on HB 3233 - Committee Counsel - 8 pages G - Testimony on HB 3233 - Sunriver Owner's Association - 7 pages H - Testimony on HB 3233 - Black Butte Ranch Service District - 10 pages I - Testimony on HB 3233 - Deschutes County - 1 page J - Proposed Amendments to HB 3233 - Rep. Clarno - 1 page K - Testimony on HB 3233 - Deschutes County - 1 page