

HOUSE COMMITTEE ON JUDICIARY

June 23, 1993 Hearing Room 357 1:30 p.m. Tapes 52 - 55

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Tom Mason, Vice-Chair Rep. Ken Baker Rep. Tom Brian Rep. Kate Brown Rep. Peter Courtney Rep. Jim Edmunson Rep. Veral Tarno Rep. Bob Tiernan

STAFF PRESENT: Julie Nolta, Committee Clerk Holly Robinson, Committee Counsel Carole Souvenir, Committee Counsel

MEASURES CONSIDERED: SB 139 - Relating to crime SB 921 - Relating to environmental offenses SB 413 - Relating to exemptions from execution SB 633 - Relating to unlawful taking of wildlife SB 635 - Relating to reporting of employment status; appropriating money; declaring an emergency SB 1110 - Relating to auxiliary proceedings

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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 52, SIDE A

001 CHAIR MASON: Calls the meeting to order at 1:50 p.m.

SB 912 - PUBLIC HEARING

(SB 912 creates new crime of unlawful disposal, storage or treatment of hazardous waste in the first degree, a Class B felony if a person knowingly disposes of, stores or treats hazardous waste and as a result, recklessly causes substantial harm to human health or the environment or knowingly disregards the law.)

Witnesses: Jim Whitty, Associated Oregon Industries Fred Hansen, Dept. of Environmental Quality Tom Lindley, Associated Oreogn Industries

020 JIM WHITTY, ASSOCIATED OREGON INDUSTRIES: Submits and reviews written testimony in favor of SB 912. (EXHIBIT A)

056 FRED HANSEN, DIRECTOR, DEPT. OF ENVIRONMENTAL QUALITY: Submits and reviews written testimony in favor of SB 912. (EXHIBIT B)

100 TOM LINDLEY, CHAIR, ENVIRONMENTAL AND NATURAL RESOURCES PRACTICE GROUP, MILLER, NASH, WIENER, HAGER AND CARLSON: Submits and reviews

written

testimony in favor of SB 912. (EXHIBIT C)

204 LINDLEY: Continues testimony.

(Opens work session on p. 7)

SB 635 - PUBLIC HEARING

(SB 635 requires certain Oregon employers to notify the Support Enforcement Division of the names and social security numbers of the individuals that they hire or rehire.)

Witnesses: Sen. Mae Yih, District 19 John Ellis

374 SEN. MAE YIH, DISTRICT 19: Submits and reviews written testimony in favor of SB 635. (EXHIBIT G) Submits proposed amendments. (EXHIBIT H)

486 REP. BAKER: Why not make this a statewide requirement for all employers?

SEN. YIH: Did submit a bill to cover all industries but it was met with opposition in the Senate Judiciary Committee from food processing industries. Proposed an amendment to focus on ten industries.

TAPE 53, SIDE A

036 REP. BAKER: The turnover argument is one that everyone can make.

SEN. YIH: Agrees. Tried to focus on the high proportion of non-paying parents in those ten industries.

REP. BAKER: Confirms that the original bill included all employers in the state and that the food service industry was the only one that objected. Why do we make everyone comply except that industry?

SEN. YIH: The focus is only on the ten industries that have the highest number of non-paying parents.

048 JOHN ELLIS: Testifies in favor of SB 635.

057 REP. BROWN: When do you expect the federal government to mandate employer reporting?

ELLIS: Expects the legislation to pass within the next 12 months as part of the Welfare Reform package.

066 REP. BRIAN: Asks about the fiscal analysis showing a positive effect on collections of more than \$9 million.

ELLIS: Correct.

REP. BRIAN: How many currently non-paying individuals does that call for? How many will you find that are able to pay?

ELLIS: Figure is not in the summary. Average payment would be expected to be \$200 per month. Discusses expected payment increases in future bienniums.

REP. BRIAN: Comes close to 5,000 non-paying people in the second biennium.

ELLIS: At least that amount.

098 REP. BRIAN: How many reports do you estimate you will receive from businesses to yield this number of people? Discusses report process.

ELLIS: Expect about a 7% hit rate of all reports turned in.

REP. BRIAN: One out of 13 employees is a "dead beat dad?"

ELLIS: Yes, out of these selected industries.

116 REP. BAKER: What is statewide average?

ELLIS: 1.2 million employed in Oregon. Child Support Program has 200,000 on its list which equals one out of 6.

REP. BAKER: What are you doing to go after the self-employed?

ELLIS: Describes actions regarding self-employed.

145 REP. BROWN: How much child support went uncollected in 1992?

ELLIS: \$1/2 billion on the books in Oregon. 154 CHAIR PARKS: Asks about the fiscal impact.

ELLIS: Will collect more than \$9 million. \$900,000 will reimburse the general fund. Explains the costs of the bill.

180 FRED VAN NATTA, OREGON STATE HOME BUILDERS: Testifies in opposition to SB 635.

207 CHAIR PARKS: Asks Sen. Yih's opinion on a sunset to the bill. Asks if the bill provides for the use of the W-4 form and obligation of the

state to provide a self-addressed stamped mailing envelope.

ELLIS: Is not in the bill but has been provided for in the fiscal impact statement.

CHAIR PARKS: Would be appropriate to put in the bill.

225 VAN NATTA: Discusses effective date because of emergency clause and the necessity for a mailing.

CHAIR PARKS: Asks Sen. Yih for justification for the emergency clause.

SEN. YIH: So Division can start working on the problem as soon as possible. Has no problem with taking it out.

255 CHAIR PARKS: Asks Mr. Van Natta if the provision for the return envelopes is satisfactory.

VAN NATTA: Believes having it on the record is a sufficient commitment.

264 SEN. YIH: Mr. Van Natta is concerned about the construction company's ability to make copies. Suggests making self-addressed postcards.

SB 635 - WORK SESSION

282 MOTION: REP. BRIAN: Moves to ADOPT SB 635 B-5 AMENDMENTS and to remove the emergency clause in Section 8 from the bill.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

295 MOTION: REP. BRIAN: Moves SB 635 BE REFERRED to Subcommittee B on Appropriations with a DO PASS recommendation.

308 REP. MASON: Doesn't want to pass the bill because it is anti-business.

CHAIR TIERNAN: Asks what business groups' position was on the bill.

REP. BRIAN: Only the home builders testified.

347 VOTE: 6-3 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Tarno, Parks NO: Edmunson, Mason, Tiernan

360 CHAIR PARKS: Calls recess at 2:40 p.m. Reopens meeting at 2:55 p.m.

SB 633 - PUBLIC HEARING

Witnesses: Sen. Joan Dukes, District 1 Kathy White Henry White

370 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 633 prohibits hunting, fishing, or trapping of wildlife by persons trespassing in violation of ORS.

383 SEN JOAN DUKES, DISTRICT 1: Testifies in favor of SB 633.

483 CHAIR TIERNAN: Discusses pointing guns out the window for safety purposes and using scopes for finding animals.

TAPE 52, SIDE A

030 CHAIR TIERNAN: Continues discussion.

041 SEN. DUKES: Pointing guns out the window is not aiming them. If scoping, you could be stopped. Bill is directed toward aiming a loaded

gun out the window of a moving vehicle.

056 CHAIR TIERNAN: How can you tell the difference between pointing a gun out the window and aiming it?

SEN. DUKES: Doesn't know the answer.

CHAIR TIERNAN: It doesn't say "loaded" it says "aimed."

SEN. DUKES: Senate Judiciary changed it from "loaded" to "aimed" for safety reasons.

CHAIR TIERNAN: Discusses stopping the vehicle to shoot after aiming.

SEN. DUKES: People do shoot from moving vehicles.

087 KATHY WHITE: Submits and reviews written testimony in favor of SB 633 . (EXHIBIT J)

116 HENRY WHITE: Testifies in favor of SB 633.

146 REP. TARNO: Is this occurring within the urban growth boundary or outside?

H. WHITE: It is a small unincorporated community. The issue is not hunting but bad judgement.

165 REP. BROWN: Refers to Section 4 of the bill. Wants to narrow it to address Rep. Tiernan's concerns.

H. WHITE: Explains his definition of "aiming."

177 SEN. DUKES: The bill is at the request of the state police.

(Re-opens public hearing on P. 8)

SB 1110 - PUBLIC HEARING

(SB 1110 allows a court to transfer a matter concerning vacation or modification of a decree of annulment or dissolution of marriage or of separation after entry of the original judgement or decree upon motion by a party and based upon convenience of the parties.)

Witnesses: Sen. Karsten Rasmussen, District

186 SEN. KARSTEN RASMUSSEN, DISTRICT 22: Testifies in favor of SB 1110.

228 CHAIR PARKS: Asks about the fiscal impact of the bill.

SEN. RASMUSSEN: Doesn't believe it would have a big impact. Discusses the impact for those who are not able to move it.

237 REP. BAKER: Has transferred cases between counties many times. Venue is not jurisdictional. Describes transfer process.

SEN. RASMUSSEN: Statute says motion to change must be made prior to trial.

REP. BAKER: Statute says prior to any other pleading you have to assert the venue is proper. Other statute allows you to transfer or creates modification between counties.

SEN. RASMUSSEN: Couldn't convince Circuit Court of Lane County that that is what that statute said.

274 REP. BAKER: Would this make an impact on foreclosure cases if it applied to civil cases? SEN. RASMUSSEN: Not qualified to answer that.

SB 1110 - WORK SESSION

295 MOTION: REP. BROWN: Moves to ADOPT SB 1110 CONCEPTUAL AMENDMENTS proposed by Maurice Russell in a letter dated June 23, 1993. (EXHIBIT L)

305 MAURICE RUSSELL, DEBTOR/CREDITOR SECTION, OREGON STATE BAR: Explains amendments.

354 VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

356 MOTION: REP. BROWN: Moves SB 1110 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

REP. BAKER: Uncomfortable with the bill in amended form and doesn't understand possible ramifications.

CHAIR PARKS: Will hold the vote until the next scheduled meeting.

SB 912 - WORK SESSION

412 MOTION: REP. BRIAN: Moves to ADOPT SB 912 B-7 AMENDMENTS; and delete "B" and insert "D" on line 42 and 43 on p. 7. (EXHIBIT M)

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

437 MOTION: REP. BRIAN: Moves SB 912 AS AMENDED TO THE FLOOR with
a DO PASS recommendation.

VOTE: 8-0 MOTION PASSES AYE: Baker, Brian, Brown,
Courtney, Mason, Tarno, Tiernan, Parks NO: None EXCUSED:
Edmunson

Rep. Brian to carry the bill.

TAPE 53, SIDE B

SB 139 - WORK SESSION

032 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 139 changes the
community corrections grant formula, to be based on workload and the
difficulty

and cost of servicing that workload. There are hand-engrossed B-17
amendments (EXHIBIT N). Summarizes changes to the bill.

CHAIR PARKS: Discusses deletions of p. 4 lines 3-5.

070 MOTION: REP. TIERNAN: Moves to ADOPT SB 139 B-17
AMENDMENTS as described by Counsel.

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

073 CHAIR TIERNAN: Moving the amount from \$500 to \$1,000 was an
excessive jump.

MOTION: REP. TIERNAN: Moves to AMEND SB 139 by deleting
"\$1,000" in Section 19, p. 11; p. 11, lines 5 and 11; p. 12, lines 19
and 21; and p. 13, lines 22 and 23; p. 14, lines 4 and 6;
and to insert "\$750".

CHAIR PARKS: Objects.

098 VOTE: 6-2 MOTION PASSES AYE: Baker, Brian, Brown, Courtney,
Tarno, Tiernan NO: Mason, Parks EXCUSED: Edmunson

106 REP. BROWN: Mentions discussion with Vern Faatz of the Parole
Board regarding changing early release parole date.

122 MOTION: REP. COURTNEY: Moves SB 139 AS AMENDED BE REFERRED
to the subcommittee on Appropriations with a DO PASS
recommendation.

VOTE: 8-0 MOTION PASSES AYE: Baker, Brian, Brown,
Courtney, Mason, Tarno, Tiernan, Parks NO: None EXCUSED:
Edmunson

SB 633 - PUBLIC HEARING

Witnesses: Rod Harder, Oregon Sportsmens Defense Fund Betty Malone
Pat Malone

144 ROD HARDER, EXECUTIVE DIRECTOR, OREGON SPORTSMENS DEFENSE
FUND: Testifies in support of SB 633.

178 REP. TIERNAN: Have you been aware of someone shooting a loaded gun
with intent to shoot an animal from a moving vehicle?

HARDER: Have not.

REP. TIERNAN: Would you support an amendment regarding "aiming a loaded
rifle?"

HARDER: Would make no difference. Burden of proof is on the state
police as to aiming or whether it is loaded.

REP. TIERNAN: It is a common practice to hang a gun out the window and
would hate to see everybody stopped by the police.

HARDER: Has no objection to adding "loaded."

196 REP. TIERNAN: So I can aim and point with a loaded gun as long as
it is not in season?

HARDER: As long as the vehicle is not moving.

207 BETTY MALONE, PROPERTY OWNER: Testifies in support of SB 633.

312 PAT MALONE, PROPERTY OWNER: Testifies in support of SB 633.

SB 633 - WORK SESSION

351 REP. TIERNAN: Would be satisfied with Section 4 if language
was returned to "loaded" rifle.

MOTION: REP. TIERNAN: Moves to AMEND SB 633 by inserting
"loaded" between "other" and "firearm" on line 3; and between "a" and
"rifle" on line 6, Section 4 page 2.

381 MOTION: REP. BAKER: Moves to AMEND SB 633 by deleting lines 9-10
of p. 1.

399 REP. TARNO: Is ORS 164.244 trespassing statutes?

REP. BAKER: Yes. Reads from statute. Doesn't want to make it a crime
to enter private property while hunting.

REP. TIERNAN: Agrees with Rep. Baker.

454 REP. BROWN: Can address their concerns by adding

"intentionally" regarding hunting on private property.

CHAIR PARKS: "Intentionally" violating the law?

REP. BROWN: "Intentionally" violating the law on private property.

REP. MASON: Should be "knowingly." Acknowledges Rep. Baker's point.

473 REP. BAKER: Would like to strike lines 9 and 10.

479 REP. BROWN: Objects.

REP. TARNO: People will ignore signs and kill animals anyway.

REP. BAKER: It could be confiscated according to Section 2.

TAPE 54, SIDE A

032 REP. TARNO: Doesn't understand why there is an objection to subsection (2) of Section 1.

038 VOTE: 4-3 MOTION PASSES AYE: Baker, Mason, Tiernan, Parks
NO: Brown, Courtney, Tarno, EXCUSED: Brian, Edmunson

CHAIR PARKS: Restates Rep. Tiernan's amendment.

055 REP. BROWN: How is a police officer going to know if the gun is loaded?

REP. TIERNAN: No better off determining whether it is aiming or not.

065 REP. MASON: All guns are presumed loaded. The "loaded" portion, though not overtly stated, is an element that needs to be pleaded and proven.

A gun pointing out a window is sufficient cause to be stopped.

REP. BROWN: What is the legal definition of "aim"?

REP. BROWN: Objects to Rep. Tiernan's amendment.

083 VOTE: 4-3 MOTION PASSES AYE: Mason, Tarno, Tiernan, Parks
NO: Baker, Brown, Courtney EXCUSED: Brian, Edmunson

090 MOTION: REP. BAKER: Moves SB 633 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-1 MOTION PASSES AYE: Baker, Brown, Courtney, Mason, Tiernan, Parks
NO: Tarno EXCUSED: Brian, Edmunson

Rep. Baker to carry the bill. SB 413 - PUBLIC HEARING

(SB 413 increases the amount of the homestead exemption for a mobile home and the real property upon which the mobile home is situated from \$15,000 to \$23,000.)

Witnesses: David Nebel, Oregon Legal Services Jim Markee, Oregon Collectors Association Del Gossen Maurice Russell, Lawyer

125 DAVID NEBEL, OREGON LEGAL SERVICES: Testifies and submits written testimony in support of SB 413. (EXHIBIT P)

171 CHAIR TIERNAN: Discusses an example of an exemption.

NEBEL: It is your interest in your property that is exempt.

190 REP. BAKER: Asks for the rationale for tripling the exemption for tools of the trade.

NEBEL: Tools have gotten more expensive.

202 REP. BAKER: Discusses limits of other states.

CHAIR TIERNAN: Has no problem with the homestead exemption but has problems with some other exemptions. Will not propose any amendments.

221 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Testifies in favor of SB 413.

238 DEL GOSSEN: Submits and reviews written testimony in favor of SB 413. (EXHIBIT Q)

363 CHAIR PARKS: Recognizes written testimony of Steven Rodeman, Oregon Credit Union League. (EXHIBIT R)

367 MAURICE RUSSELL, LAWYER: Submits written testimony. (EXHIBIT S)

SB 413 - WORK SESSION

390 REP. BAKER: Refers to p. 9, Section 9, line 31. How does the bill affect bankruptcy law? When will they be effective for bankruptcy

purposes?

CAROLE SOUVENIR, COMMITTEE COUNSEL: Doesn't address bankruptcy law.

REP. BAKER: Restates question.

432 RUSSELL: Date of filing is effective date. REP. BAKER: You declare the statute?

RUSSELL: The schedules provide for a scheduling exempt property as of the date of the petition.

REP. BAKER: Practitioners will dismiss pending cases and wait and refile actions.

RUSSELL: That is possible although there are statutory prohibitions to

doing that in bankruptcy.

466 MOTION: REP. BROWN: Moves SB 413 TO THE FLOOR with a DO PASS recommendation.

VOTE: 5-0 MOTION PASSES AYE: Baker, Brown, Edmunson, Tiernan, Parks
NO: None EXCUSED: Brian, Courtney, Tarno, Mason

Rep. Edmunson to carry the bill.

TAPE 55, SIDE A

041 CHAIR TIERNAN: Adjourns meeting at 4:35 p.m.

Submitted by: Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on SB 912 - Associated Oregon Industries - 1 page B -
Testimony on SB 912 - Dept. of Environmental Quality - 2 pages C -
Testimony on SB 912 - Tom Lindley - 6 pages D - Proposed amendments to
SB 912 - 1 page E - Testimony on SB 912 - Oregon State Police - 4 pages
F - Testimony on SB 912 - Lane Co. Board of Commissioners - 1 page G -
Testimony on SB 635 - Sen. Mae Yih - 10 pages H - Proposed amendments
to SB 635 - Sen. Mae Yih - 1 page I - Testimony on SB 635 - Associated
Oregon Industries - 1 page J - Testimony on SB 633 - Henry and Kathy
White - 7 pages K - Testimony on SB 633 - Oregon State Police - 2 pages
L - Testimony on SB 1110 - Maurice Russell - 1 page M - Proposed
amendments to SB 912 - 1 page

N - Proposed amendments to SB 139 - 5 pages O - Testimony on SB 139 -
Board of Parole and Post-Prison Supervision - 5 pages P - Testimony
on SB 413 - Oregon Legal Services - 8 pages Q - Testimony on SB 413 -
Del Gossen - 7 pages R - Testimony on SB 413 - Oregon Credit Union
League - 3 pages S - Testimony on SB 413 - Maurice Russell - 1 page