

SENATE COMMITTEE ON  
JUDICIARY

June 4, 1993           Hearing Room C  
1:00 p.m.   Tapes 181A - 182A

MEMBERS PRESENT:   Sen. Dick Springer, Chair  
                  Sen. Bob Shoemaker, Vice-Chair  
                  Sen. Jeannette Hamby  
                  Sen. Gordon Smith  
                  Sen. Catherine Webber

MEMBERS EXCUSED:   Sen. Karsten Rasmussen

STAFF PRESENT:       Karen Quigley, Legislative Counsel  
                  Kate Wrightson, Committee Administrator  
                  Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED:   Public Hearing & Possible Work Session on HB 3385,  
HB  
216 6,  
                                  HB 2118, HB 2334, HB 2543  
                                  Possible Reconsideration & Work Session on SB 322  
                                  Work Session on HB 2144

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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.

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TAPE 181A, SIDE A

003   CHAIR SPRINGER: Opens hearing at 1:10 p.m.

PUBLIC HEARING & POSSIBLE WORK SESSION

HB 2543: Modifies provisions of Uniform Commercial Code Article 2A concerning leases.

007   MARTHA WALTERS, UNIFORM LAWS COMMISSIONER: Submits and reviews written testimony in support of HB 2543. (EXHIBIT C)

          QUIGLEY: Gives overview of HB 2543-A2 amendments. (EXHIBIT B)

017   WALTERS: We have no opposition to amendments as long as the effective date is delayed 18 months.

          SEN. SHOEMAKER: Does the A engrossed bill depart, in any respect, from

the uniform code?

026 WALTERS: No. We had to fill in a \$25,000 limit in the definition of consumer lease.

SEN. SHOEMAKER: Are the -2 amendments consistent?

031 WALTERS: The TRAC 2 leasing isn't part of the uniform bill.

QUIGLEY: Sixteen states that have adopted this TRAC leasing amendment.

(EXHIBIT A)

CHAIR SPRINGER: Is there an Oregon component of The American Automotive Leasing Association?

046 WALTERS: I do not know.

CHAIR SPRINGER: We've dealt with one other company on SB 1002. Is there any relationship to this bill?"

057 WALTERS: The Oregon Bankers Association support this bill

SEN. SHOEMAKER: Why wasn't the TRAC leasing amendment dealt with in the House?

064 WALTERS: They didn't find out about it until after it went through.

HB 2118: Excludes only bona fide security dividends from definition of "sale" for purposes of Oregon Securities Law.

076 QUIGLEY: Gives overview of bill.

085 JIM HARLAN, INSURANCE/FINANCE: Submits and reviews written testimony in support of HB 2118. (EXHIBIT D)

HB 2166: Permits financial institutions to give officers and agents of office of State Treasurer access to private financial records related to state investments.

148 ROLLIE WISB ROCK, OREGON STATE TREASURY: Submits and reviews written testimony in support of HB 2166. (EXHIBIT F)

CHAIR SPRINGER: What is the relevant provision in the Federal Code?

177 QUIGLEY: Chapter 3403: Confidentiality of Financial Records. (EXHIBIT E)

WISB ROCK: HB 2166 allows us to do both real estate and commercial

mortgages.

190 QUIGLEY: Please explain your reason for requesting proposed existing  
or  
former state investments and why that language is in there?

197 BOB MUIR, ATTORNEY GENERAL'S OFFICE: Testifies in support of HB 2166.  
- I drafted the language at the request of the State Treasurer.

251 CHAIR SPRINGER: Is it possible that you would be put in the position  
of  
putting non-disclosure labels on otherwise disclosable bank records?

MUIR: No. Only records that come to the State Treasurer are  
non-disclosable.

POSSIBLE RECONSIDERATION & WORK SESSION

SB 322: Prohibits knowingly presenting false claims to public body  
for  
payment.

299 QUIGLEY: There is some language that should be removed from the  
bill  
that was passed out of this committee.

304 MOTION: CHAIR SPRINGER: Moves the RECONSIDERATION of SB 322.

VOTE: Hearing no objection the motion is ADOPTED.

308 QUIGLEY: Gives overview of SB 322-A4 amendments. (EXHIBIT G)

339 MOTION: CHAIR SPRINGER: Moves to ADOPT the deletion on pg. 6, 11.  
17-19  
of the amendments dated 5-26-93.

VOTE: Hearing no objection the amendments are ADOPTED.

345 MOTION: CHAIR SPRINGER: Moves that SB 322 as amended be sent to  
the  
Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED.

WORK SESSION

HB 2144: Allows juvenile court to enter restraining order against  
alleged  
child abuser under certain  
circumstances.

397 TIMOTHY TRAVIS, JUVENILE RIGHTS COALITION: Submits and reviews  
written  
testimony in support of HB 2144. (EXHIBIT I)

TAPE 182A, SIDE A

003 QUIGLEY: The word "family" should be "household".

TRAVIS: Oregon Legal Services raises the issue of getting a restraining order before the child is in custody. The statute 419.577 works for a hearing before a child is removed from the home. (EXHIBIT J)

SEN. SHOEMAKER: Temporary custody is the premise of everything under sub. b.

047 TRAVIS: That's why I'm proposing the new section 3, which takes the introduction of 577 and inserts the words "about to be taken into temporary custody".

065 SEN. SHOEMAKER: We should use sub. c, rather than the opening paragraph.

TRAVIS: That would do the job.

081 SEN. SHOEMAKER: We could say under sub. b "that when a child is taken into temporary custody".

CHAIR SPRINGER: We were presented earlier with the -A3 amendments that attempt to clarify and make this consistent with SB 257. (EXHIBIT H)

118 SEN. SHOEMAKER: We should add a sub. section 3 amending ORS 419.577 by adding to the second line of sub. b after the word "custody" the phrase "or about to be taken into temporary custody".

128 DAVID NEBEL, OREGON LEGAL SERVICES: Testifies in support of HB 2144.

SEN. SHOEMAKER: Make the change to line 1 of sub. b and sub. 3.

140 MOTION: CHAIR SPRINGER: Moves to ADOPT the additional language in proposed HB 2144 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

MOTION: SEN. SHOEMAKER: Moves to ADOPT the word "household" for "family".

VOTE: Hearing no objections the amendment is ADOPTED.

147 MOTION: SEN. SHOEMAKER: Moves to ADOPT HB 2144 proposed amendments, including Senator Shoemaker's amendment.

VOTE: Hearing no objection the amendments are ADOPTED.

QUIGLEY: The -A3 amendments incorporate the Nebel amendments. Those are

no longer necessary. To enroll SB 257 would still be appropriate.

163 MOTION: CHAIR SPRINGER: Moves that the amendments adopted today  
be  
incorporated by LC in the format suggested in the -A3 amendments for  
purposes of conformity.

VOTE: Hearing no objection the amendments are ADOPTED.

171 MOTION: CHAIR SPRINGER: Moves that HB 2144 as amended be sent to  
the  
Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. SEN. SHOEMAKER will CARRY

PUBLIC HEARING & POSSIBLE WORK SESSION

HB 3385: Declares state policy to displace competition between Arena  
and  
Memorial Coliseum.

193 BRAD HIGBEE, TRAIL BLAZERS/OREGON ARENA CORPORATION: Submits and  
reviews

written testimony in support of HB 3385. (EXHIBIT K)

237 JAY ISSAC, OREGON ARENA CORPORATION: Submits and reviews  
written

testimony in support of HB 3385. (EXHIBIT L)

- Eighty-three percent of the cost will be privately funded.

Seventeen percent is publicly funded by City of Portland bonds.

313 MICHAEL VASKA, OREGON ARENA CORPORATION: Submits and reviews  
written

testimony in support of HB 3385. (EXHIBIT M)

- Talks about Anti-trust immunity

TAPE 181A, SIDE B

003 VASKA: Continues testimony.

029 HIGBEE: This situation is somewhat different in that government is  
a  
part of this partnership. A balance is represented by the City of  
Portland and Oregon Arena Corporation.

073 BILL MANLOVE, CITY OF PORTLAND: Submits and reviews written testimony  
in

support of HB 3385. (EXHIBIT N)

- Refers to letter from Mayor Vera Katz. (EXHIBIT O)

132 SEN. SHOEMAKER: The city has the effective veto power on the prices?  
MANLOVE: If there's any dispute it will go to a dispute resolution  
proceeding.

148 SEN. SHOEMAKER: And the initial pricing policy would be approved?

MANLOVE: The pricing policy is part of the annual budget and that's submitted to City Council for approval.

154 SEN. SHOEMAKER: The language regarding "active supervision" is quite loose. All it says is that the city "may".

MANLOVE: We're not exposed to any money damages or attorney's fees.

175 SEN. SHOEMAKER: Andy Arboteen is up to speed on this subject and says the city supervision will ultimately determine whether the Active Supervision prong is being met.

VASKA: I feel the bill does provide that type of authority on pg. 2, paragraph 4. The City of Portland has authority to provide the Active Supervision required by the State Action Immunity Doctrine.

236 SEN. SHOEMAKER: Arboteen says its not clear what authority the city has to step in and overturn private party decisions that don't comport with state policy. This issue should be settled.

VASKA: The city does have that authority. It has the ultimate sanction of terminating that agreement.

274 HIGBEE: The City of Portland owns the Coliseum. And if they aren't satisfied with management operations, it will cancel the contract.

SEN. SHOEMAKER: If the city is satisfied and OAC is willing to take the risk, I'll accept that.

VASKA: There is always risk and this bill will provide the protection that we're seeking.

309 SEN. G. SMITH: Sen. Shoemaker, do you have any ideas on how to improve this?

SEN. SHOEMAKER: I'm willing to let them take their chances.

327 CHAIR SPRINGER: Is it anticipated that there will be different standards exercised in relation to rental or operation of Arena vs. Coliseum in terms of the kinds of events?

MANLOVE: We're still developing pricing policies. The arena has a uniform approach to rental charges. The figure is 12% for most

concerts  
and 10% for family galas.

384 ISSAC: It will also depend on date availability.

CHAIR SPRINGER: Can you deny use of the Coliseum to some groups?

TAPE 182A, SIDE B

003 VASKA: Yes.

CHAIR SPRINGER: Can the city do that without finding itself in court?

MANLOVE: The agreement does provide for a broad indemnity.

021 SEN. G. SMITH: Due to the public nature I doubt you could deny  
access.

035 MOTION: SEN. SHOEMAKER: Moves that HB 3385 A be sent to the Floor with  
a  
DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. SEN. SHOEMAKER will CARRY.

HB 2118 (continued)

065 MOTION: CHAIR SPRINGER: Moves that HB 2118 be sent to the Floor with  
a  
DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

072 The motion is ADOPTED. SEN. G. SMITH will CARRY.

HB 2334: Adds offense of unlawful display or sale of vehicle without  
Vehicle  
dealer certificate to  
category of offenses subject to civil penalty.

083 WANDA WAHUS, OREGON INDEPENDENT AUTO OWNERS: Testifies in support of  
HB 2334.

088 RON TERRY, OIAO: Submits and reviews written testimony in support of  
HB  
2334. (EXHIBIT Q)

148 QUIGLEY: There is the \$5,000 civil penalty in section 1, sub. 2 that  
is  
new to this bill.

SEN. SHOEMAKER: Do we have the ORS 822.010 sub.1-2 statute?

168 WAHUS: That should have been drafted in the bill last session.  
It  
refers to display and sale.

SEN. SHOEMAKER: Is this \$5,000 penalty appropriate?

186 WAHUS: The \$5,000 is the maximum penalty. It is lower for first  
time offenders.

SEN. SHOEMAKER: Then the authority can be used to make sure that the  
penalty you permit is appropriate.

193 TERRY: There are more cases where the \$5,000 hasn't been fined.

205 CHAIR SPRINGER adjourns hearing at 3:05 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal  
Assistant

Karen Quigley  
Administrator

#### EXHIBIT LOG

- A - Testimony on HB 2543-staff-13 pgs.
- B - Proposed HB 2543-A2 amendments-staff-1 pg.
- C - Testimony on HB 2543-Martha Walters-3 pgs.
- D - Testimony on HB 2118-Jim Harlan-3 pgs.
- E - Testimony on HB 2166-Rollie WiSB rock-10 pgs.
- F - Testimony on HB 2166-staff-16 pgs.
- G - Proposed SB 322-A4 amendments-staff-9 pgs.
- H - Proposed HB 2144 amendment-Judge Harrell/KQ-1 pg.
- I - Proposed HB 2144 amendments-Tim Travis-2 pgs.
- J - Testimony on HB 2144-Tim Travis-1 pg.
- K - Testimony on HB 3385-Brad Higbee-3 pgs.
- L - Testimony on HB 3385-J. Issac-2 pgs.
- M - Testimony on HB 3385-Micheal Vaska-9 pgs.
- N - Testimony on HB 3385-Bill Manlove-6 pgs.
- O - Testimony on HB 3385-Vera Katz-2 pgs. \*
- P - Testimony on HB 3385-Ted Kulongoski-2 pgs. \*
- Q - Testimony on HB 2334-Ron Terry-2 pgs.



R - Testimony on HB 2334-Dennis Koho-1 pg. \*

\* Submitted written testimony only.