

SENATE COMMITTEE ON
JUDICIARY

July 14, 1993 Hearing Room C
1:00 p.m. Tapes 219 - 220

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Jeanette Hamby
 Sen. Karsten Rasmussen
 Sen. Bob Shoemaker
 Sen. Gordon Smith
 Sen. Catherine Webber

STAFF PRESENT: Bill Taylor, Committee Counsel
 Karen Quigley, Committee Counsel
 Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Reconsideration & Work Session on HB 2386
Public Hearing & Work Session on HB 3104, HB 2033, HB 2854,
HB
247 7 HB 2233, HB 3059, HB 2224, HB 2514
Work Session on HB 2309, HB 3233

TAPE 219 SIDE A

003 CHAIR SPRINGER: Opens the hearing. (1:12 p.m.)
PUBLIC HEARING ON HB 3104: Exempts certain records of non-regulated
corporation having affiliated interest with telecommunications utility of
public utility from public disclosure. WITNESSES: MARY TOMLINSON, US WEST
COMMUNICATIONS GARY WILHELM, US WEST COMMUNICATIONS PHIL REISLING,
SECRETARY OF STATE DREW MORGAN, CITIZEN SCOTT GALLANT, OREGON MEDICAL
ASSOCIATION JANE MYERS, OREGON DENTAL ASSOCIATION

011 MARY TOMLINSON, US WEST COMMUNICATIONS: Submits and reviews written
testimony in support of the bill, (EXHIBIT C).

- Testifies in support (-A8) amendments, (EXHIBIT A).
- The financial statement exemption would be added as a new section, being
deleted from the generic definition section; the exemption is limited to
telecommunication utilities.
- This would protect the public because the exemptions are placed under ORS
192 .501 and are what I call conditional exemptions.

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112 GARY WILHELMS, US WEST COMMUNICATIONS: Testifies in support of 3104 with
amendments.
· I appeal to you to not "stuff" other bills into HB 3104.

CHAIR SPRINGER: Refers to a letter received from Rion Bouijies, (not
available for the record).

152 SEN. WEBBER: The letter raises issues that make me weary; I would
appreciate a good frank discussion of those issues.

SEN. HAMBY: I am comfortable with the bill as it is and with the amendment.

180 PHIL KEISLING, SECRETARY OF STATE: Submits and reviews written
testimony, with proposed amendments, in support of the bill, (EXHIBIT B).

300 SEN. HAMBY: I note that regarding the issue of privacy, it lasts for no
more than five years; if necessary, would there be an allowable extension
period?

NINA JOHNSON, SECRETARY OF STATE'S OFFICE: Yes; that just means that you
don't have to take affirmative action during that five year period.

321 DREW MORGAN, CITIZEN: Submits and reviews written testimony in support
of amendments to the bill, (EXHIBIT D).

CHAD SPRINGER: Notes support for Keisling amendments from Les Zeitz.

357 JANE MYERS, OREGON DENTAL ASSOCIATION: Testifies in opposition to the
bill.

- States concerns about anonymous complaints; recommends narrowing that
provision.

· On page three of SB 499-A we'd request that you not allow the complainant to, in every case, have their identity not disclosed.

419 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Testifies in opposition to SB 499; states concerns about the bill.

· This bill provides that if there is a contest on whether it is to be released or not, there is a procedure provided by statute and if the state loses the case, the access of that information would be reimbursed by the agency or state and that is cost that hasn't been considered.

· Continues with concerns with SB 499.

TAPE 220, SIDE A

055 GALLANT: We still don't support SB 499 as currently amended.

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0 70 DAVID FIDANQUE, ACLU: Testifies in support of the Keiding amendments.

074 BRUCE BISHOP, KAISER PERMANENTE: Testifies in opposition to Keisling amendments.

· We would request the deletion of section thirty-nine of SB 499; those provisions relate to insurance examinations by the Department of Insurance and Finance and we don't believe they are appropriate in this bill.

091 GALLANT: Peer review is carried out by some boards; this will allow some boards to use peer

review activities to keep the information they use for disciplinary activities confidential because

they have peer review activities under statute.

SEN. WEBBER Could you clarify the characterization concerning the dental board?

GALLANT: According to our COUD - , some boards, by statute, utilize peer review and

would be able to utilize that mechanism to keep that information confidential.

125 QUIGLEY: Reviews (-A8) and Keisling amendments, (see Exhibit A & B).

JOHNSON: Concerning section thirty-nine, it is unnecessary and can be deleted.

· -Responding to Gallant, all actions at board level are confidential; reviews the contested case process.

183 JOHNSON: Concerning section four, this is a rewrite regarding clarity.

· Peer review needs to be left intact.

219 SEN. SHOEMAKER: There is concern that under section four the accused could never face the accuser?

JOHNSON: That is clearly not the intent of that section; the accuser has to reveal their identity to go this far in the complaint process.

265 TOMLINSON: The new version of the bill addresses concerns; the process is much more open in this bill than he describes, (referring to a letter Sen. Springer received).

· The law recognizes that it may be appropriate to limit the manner or the way that information is disclosed in court or PUC hearings.

357 MIKE WIREWICK, ASSISTANT ATTORNEY GENERAL, PUC: Information is not kept from anyone, they can receive the information if they comply with the discovery process requirements.

· Describes process.

SEN. SHOEMAKER: If this bill had been law certain information in put cases would not have

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been public?

WIREWICK: Information would have been accessible if the utility had filed

and agreed to ensure confidentiality; nondisclosure would have been required.

424 PHIL NYGARD, ADMINISTRATOR, FINANCIAL ANALYSIS DIV - ON, PUBLIC UTILITY COMMISSION: There is a clear difference between the discovery process we use in docketed cases and the public records process, which is addressed by this bill.

471 CHAIR SPRINGER: If the (-AS) amendments were clarified in subsection twenty(a), making it clear that we are referring to telecommunication utility audit reports?

TOMLINSON: I agree with the amendments as drafted by Legislative Council.

TAPE 219, SIDE B

035 QUIGLEY: A suggestion has been made to amend the title in Section twenty(a) and probably section nineteen(a) also, that the audit reports refer only to the telecommunication exemption.

TOMLINSON: We would have no objection to that.

HB 3059: Allows person, organization or association to offer reward for information leading to apprehension of person who has violated state wildlife law.

WITNESSES: REPRESENTATIVE LARRY SOWA, HOUSE DISTRICT 26 LARRY KRAFT, OREGON STATE POLICE ROD HARDER, OREGON SPORTSMANS DEFENSE FUND KEN EVANS, OREGON HUNTERS ASSOCIATION

057 REPRESENTATIVE LARRY SOWA, HOUSE DISTRICT 26: Testifies in support of HB 3059.

· We are trying to clarify the law to make sure that we are allowed to not only offer a reward for wildlife violations, but that the Judge is allowed to return the money to the reward fund so there can be a revolving reward fund.

SEN. SHOEMAKER: Is there a sentence imposed by the court for violations of wildlife laws?

REP. SOWA: Yes.

SEN. SHOEMAKER: You are satisfied it works?

REP. SOWA: Yes; we think this language will accomplish what we intend to do.

112 KEN EVANS, OREGON HUNTERS ASSOCIATION & NORTHWEST STEELHEADERS ASSOCIATION: Testifies in support of HB 3059.

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· The number of citations since 1989 have increased, so things are starting to get done; we are finding that 50% of our game is illegally poached and with the dwindling supply we can't keep statistical records with poaching going on.

131 ROD HARDER, OREGON SPORTSMANS DEFENSE FUND: Submits and reviews written testimony in support of the bill, (EXHIBIT F)

· We'd ask, along with the National Rifle Association, (NRA), that you approve this bill.

138 LARRY KRAFT, Lt., OREGON FISH AND WILDLIFE DIVISION, OREGON STATE POLICE: Submits and reviews written testimony in support of the bill, (EXHIBIT G).

SEN. HAMBY: In one year 554 calls were received and there were 45 citations?

KRAFT: Correct.

SEN. HAMBY: Based on these statistics, 22 of 598 were cited; do these kinds of statistics help you to look at how to be more effective?

172 CHAIR SPRINGER: What is the procedure for calls, what training takes piece?

KRAFT: Call takers are trained, calls are screened; the individual is not required to leave name; the call is then sent to the closest office who responds to the call.

The statistics don't show us being effective; with a large percentage of the calls we were unable to locate the individual, and quite a few of the calls are unfounded and a violation hadn't taken place.

209 MOTION: SEN. RASMUSSEN MOVES IIB 3059-A TO THE FLOOR WITH ADO
- PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

HB 2309: Establishes procedures for investigation, hearing and sanction by Senior and Disabled Services Division or area agency on aging for abuse of resident of long term care facilities.

WITNESS: SALLY GOODWIN, OREGON ASSOCIATION OF HOMES FOR THE AGING

SEN. WEBBER: Submits (-A9) amendments, (EXHIBIT H).

230 QUIGLEY: We also have the (-A8) amendments, (EXHIBIT L), from the last hearing that limit the definition of abuse.

245 SALLY GOODWIN, OREGON ASSOCIATION OF HOMES FOR THE AGING: Testifies in support of all the amendments, submits written testimony, (EXHIBIT I).

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SEN. SHOEMAKER: Should we include "duress"; that isn't really consent.

267 MOTION: SEN. SHOEMAKER MOVES THAT THE WORD "DURESS" BE
INSERTED AFTER THE WORD "THREAT" ON LINE 19.

270 VOICE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: CHAIR SPRINGER MOVES THAT THE (-A8) AMENDMENTS BE ADOPTED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

274 MOTION: CHAIR SPRINGER MOVES THAT THE (-A9) AMENDMENTS BE
ADOPTED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: SEN. WEBBER MOVES THAT HB 2309 AS AMENDED TO THE
FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

HB 2386: Increases minimum damages that may be recovered for violation of unlawful trade practices law.

MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION OF HB 238C.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

307 QUIGLEY: Reviews (-A3) amendments, (EXHIBIT M).

419 SEN. SHOEMAKER: What would be the change in section eight?

QUIGLEY: It is only a clarification on line twenty six.

436 SEN. SHOEMAKER: Shouldn't the violation be the greater of \$1000.00 or
the amount lost;
we

should permit the violation penalty to be equal to the amount lost.

460 QUIGLEY: Continues review of (-A3) amendments.

CHAIR SPRINGER: We will hold the bill for amendments to be drafted; Counsel
will work
with LC.

TAPE 220, SIDE B

HB 3104: Exempts certain records of non-regulated corporation having affiliated interest with

telecommunications utility of public utility from public disclosure.

050 MOTION: CHAIR SPRINGER-MOVES THAT THE (-A8) AMENDMENTS BE ADOPTED WITH THE TITLE CORRECTION FOR THE NEW SECTIONS 19A & 20A.

057 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: CHAIR SPRINGER MOVES THAT THE AMENDMENTS PROPOSED BY THE SECRETARY OF STATE, BASICALLY INCORPORATING PROVISIONS OF 499 AS AM1 :NDJED, INCLUDING THE DELETION OF SECTION 39, BE ADOPTED. THE MOTION ALSO INCLUDES APPROPRIATE CONFLICT AMENDMENTS THAT MAY BE NECESSARY.

078 SEN. SMITH: I will register a no vote as a matter of objecting to the process; I will be voting for the bill.

082 VOTE: IN A ROLL CALL VOIE THE MOTION CARRIES. MEIMBERS VOTING NO: SEN. SMITH

MOTION: CHAIR SPRINGER MOVES THE TOP TWO PAGES OF THE SECRETARY OF STATE'S PROPOSED AMENDMENTS, SECTION X, Y ~ Z.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS VOTING NO: SEN. SMITH.

MOTION: CHAIR SPRINGER MOVES HB 3104 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

103 VOTE: IN A ROLL CALL VOTE: THE MOTION CARRIES UNANIMOUSLY.

HB 2224: Creates crime of unlawful impersonation of peace officer.

106 BILL TAYLOR, COMMITTEE COUNSEL: Reviews the bill and (-A4) amendments, (EXHIBIT J)

121 SEN. HAMBY: I phoned Frank Hall, Department of Corrections, who agreed to the amendments to the bill and fully supports them.
Reviews amendments.

148 MOTION: SEN. HAMBY MOVES THE (-A4) AMENDMENTS BE ADOPTED. CHAIR SPRINGER: These amendments should be read as deleting the original language of the bill in it's entirety, renumbering the sections.

168 SEN. RASMUSSEN: I would like to review the amendments.

The committee stands at ease.

HB 2033: Prondes that certain property held in safe deposit box which remains unclaimed for more than one year is presumed abandoned.

WITNESSES:

MARCELLA EASLEY, DIVISION OF STATE LANDS

195 MARCELLA EASLEY, DIVISION OF STATE LANDS: Submits and reviews written testimony in support of the bill, (EXHIBIT K).

221 CHAIR SPRINGER: The financial illStitUtil ns have no objections?

EASLEY: Correct.

SEN. SHOEMAKER: What happens if owner does show up after three years?

EASLEY: The owner is always entitled to claim belongings; it is held in trust for the owner by the state indefinitely.

248 MOTION: CHAIR SPRINGER MOVES THAT HB 2033-A BE SENT TO THE FLOOR WITH A DO PASS RECOMMENDATION.

253 VOTE IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

HB 2224: Creates cnme of unlawful impersonation of peace officer. WITNESS: JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION

262 SEN. RASMUSSEN: I will be voting no.

SEN. HAMBY: This is clear; no concealed weapons, no fireanns, no weapons in

court houses and no concealed weapons, firearms and no weapons in schools; it is in sync with the federal law.

290 JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION: I do not support section four, page two, lines eight through eleven of the amendments. SEN. HAMBY: Without that language there is no support for the bill, including from mysdf.

312 NICHOLS: Under current law a concealed weapon license holder can have concealed weapons in those places.

· We still like giving the Judge the power to declare what they have to do.

324 SEN. HAMBY: My preference is, if we are sitting in judgement of what a Judge can do and can't do, to sit with the group from court security that recommended this language.

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NICHOLS: There aren't statistics where a concealed license holder has screwed up in court or school.

SEN. HAMBY: According to State Police statistics, 345 Oregonums have been brought in the court rooms on crinlinal charges, wearing their concealed weapons permit.

385 SEN. RASMUSSEN: I don't care if a person with a concealed weapon permit can go in or out of courtroom, my problem is with "courthouse"; this language is too broad.

410 VOTE: IN A ROLL CALL V(TE THE MOTION CARRIES. MEMBERS
VOIING NO: SEN. RASMUSSEN & SEN. SMITH.
MOTION: SEN. HAMBY MOVE; THAT HB 2224 AS AMENDED BE SENT TO
THE FLOOR WITH A DO PASS RECOMMENDATION.
420 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS
VOTING NO: SEN. RASMUSSEN.

429 CHAIR SPRINGER: We are adjourned.

Transcribed by,

Reviewed by,

Kimberly Burt
Committee Assistant

Bill Taylor
Committee Counsel

EXHIBIT SUMMARY:

- A - HB 3104: Proposed (-A8) amendments submitted by staff, pp 2
- B - HB 3104: Written testimony submitted by Keisling, pp 17
- C - HB 3104: Written testimony submitted by Tonlinson, pp 5
- D - HB 3104: Wntten testimony submitted by Morgan, pp 1
- E - HB 3104: Proposed amendments submitted by Morgan, pp 2
- F - HB 3059: Written ~ submitted by Harder, pp 1
- G - HB 3059: Written testimony submitted by Kraft, pp 6
- H - HB 2309: Proposed (-A9) amendments submitted by staff, pp 1
- I - HB 2309: Written testimony submitted by Gaodwin, pp 1
- J - HB 2224: Proposed (-A4) amendments submitted by staff, pp 4
- K - HB 2033: Written testimony submitted by Easley, pp 8
- L - HB 2309: Proposed (-A8) amendments submitted by staff, pp 1
- M - HB 2386: Proposed (-3) amendments submitted by staff, pp 15

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