

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.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 14, 1991  
P.M.

Hearing Room F 1:30  
Tapes 55 - 57

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken,  
Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep.  
Beverly Stein Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta  
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2774 WS SB 16 PH & WS HB 2692 PH  
SB 41 PH

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TAPE 55, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:33 p.m. and opens the work session on HB 277 4.

HB 2774 - AUTHORIZES INSURANCE COVERING PIPELINE COMPANY, CONTRACTORS AND SUBCONTRACTORS.

A letter from Richard McGavock, Insurance Division, in response to questions raised about exceptions to the prohibition of fictitious grouping at the March 5, 1991 public hearing on HB 277 4 is hereby made a part of these minutes (EXHIBIT A).

017 MOTION: REP. WALDEN moves that HB 2774 be sent to the Floor with a DO PASS recommendation.

025 REP. STEIN: I want to make clear on the record that we are talking about this natural gas line and are not opening up the possibility of extending this to a petroleum product line.

032 CHAIR SCHOON: FOR THE LEGISLATIVE RECORD, we are talking about a pipeline for pumping natural gas, not lines to carry other products.

037 VOTE: In a roll call vote, all members are present and vote AYE.

040 CHAIR SCHOON declares the motion PASSED.

042 REP. WALDEN will lead discussion on the Floor.

045 CHAIR SCHOON opens the public hearing on SB 16-A Eng.

(Tape 55, Side A) SB 16 A-ENG. - INCREASES OPTIONS OF INVESTMENT OFFICER WHEN SELECTING DEPOSITORY FOR INVESTMENT POOL FUNDS. Witnesses: Steve Smith, Deputy State Treasurer Gary Bruebaker, Director, Cash Management, Oregon State Treasury

The Senate Staff Measure Summary (EXHIBIT B) is hereby made a part of these minutes.

053 STEVE SMITH, Deputy State Treasurer: This is one of many bills that will be coming from the Senate. SB 16-A Eng. passed the Senate 28-0. We look at it as a technical correction bill. The committee has testimony from Gary Bruebaker (EXHIBIT C).

062 GARY BRUEBAKER, Director, Cash Management, Oregon State Treasury, reviews his prepared statement (EXHIBIT C).

081 CHAIR SCHOON: Would you clarify what "book-entry" form is?

081 MR. BRUEBAKER: Book-entry form as issued by the U. S. Treasury means that the Treasury keeps track of who owns the security, but other than that record there is no physical security delivered.

088 REP. BARNES: Why would you want to go from monthly to quarterly deductions?

091 MR. BRUEBAKER: Ever since the two pools were combined we have deducted the fee monthly. We want to continue that practice. We have been doing that during this time even though the statute says we do it quarterly.

097 CHAIR SCHOON closes the public hearing and opens the work session on SB 16 A-Eng.

099 MOTION: REP. WALDEN moves that SB 16 A-Eng. be sent to the Floor with a DO PASS recommendation.

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

102 CHAIR SCHOON declares the motion PASSED.

103 REP. RIJKEN will lead discussion on the Floor.

106 CHAIR SCHOON opens the public hearing on SB 41 A-Eng.

SB 41 A-ENG. - REQUIRES CERTIFIED SHORTHAND REPORTERS TO PAY CERTIFICATION RENEWAL FEE OF \$100 BIENNIALY. Witnesses: Marilyn Coffel, Bureau of Labor and Industries Sandy Sterling, Bureau of Labor and Industries Keith Burns, Oregon Court Reporters Association David Ohmart, Official Court Reporter, Oregon Court Reporters Association

107 TERRY CONNOLLY, Administrator: SB 41 does have a subsequent referral to Ways and Means. The Legislative Fiscal Analysis is hereby made a part of these minutes (EXHIBIT D). He reviews the Senate Staff Measure Summary (EXHIBIT E).

122 MARILYN COFFEL, Bureau of Labor and Industries, introduces Sandy Sterling, Manager, Licensing Unit, Bureau of Labor and Industries and submits a prepared statement and background information on the program (EXHIBIT F). She reviews the prepared statement.

156 REP. NAITO: Is the number of reporters decreasing?

157 MS. COFFEL: This program was instituted last session at the request

of the industry. We forecast 400 certifications; we have a shortfall forecast. It is not a mandated program; the industry wanted to establish professional standards for themselves.

206 SANDY STERLING: Many were grandfathered in the initial program. Now the certification requires passing a skills test that is given at least twice a year. We accept other test in lieu of that. The skills test is fairly rigorous because the profession wanted to have a good standard. The other part that makes it a shortfall is it is not mandatory to be certified. It is a voluntary program that is more for professional standards than anything else.

221 CHAIR: Do you administer test for renewal of certification.

222 MS. STERLING: We renew the certification if they have submitted the proper number of points of continuing education credits. They are required to have 20 hours of continuing education credits. We don't have a mechanism for re-testing the skill level.

248 CHAIR SCHOON: How does this help the public?

MS. COFFEL: It was requested by the profession and they asked if we would administer it. We said yes if there were funds to administer it.

280 KEITH BURNS, Oregon Court Reporters Association: There has been a large group within the association trying to professionalize the work and standardize the quality of work the court reporters produce. The Judicial Department didn't have any criteria to speak of when hiring official reports. There are about 80 officials reports in the state of Oregon. This program has been so successful they now use it. You have to be a certified court reporter to be employed by the State of Oregon. There has been a large influx of reporters into the state. One reason the Bureau of Labor has been as busy as they are, is some of these people hadn't been here long enough to qualify under the grandfathering and it has taken them longer to qualify and for BOLI to collect the fees. The reporters seek out the opportunity to improve the quality of their work. If you are a lawyer, you see the importance of transcripts. They advertise now and tell you how to reach a certified court reporter and there is a list.

353 DAVID OHMART, Official Court Reporter, Marion County Circuit Court, representing the Oregon Court Reporters Association: There are about 350 court reporters in the state. Eighty are officials and the remainder are free lancers. Our services are becoming more demanded not only by the legal profession, but in other parts of the business world. We support the fee increases. There is nothing to assure the attorney that the reporter has met any criteria. With the technology we are utilizing today, it is significant that the reporter be competent. We have setup up national standards for minimum professionalism for court reporters to meet before they can practice in the field.

358 CHAIR SCHOON: I want to check to see whether this was created with a sunset so it would be automatically review and whether it is still desirable.

370 REP. BARNES: I don't feel comfortable with government acting as a registry for these professional organizations. Unless there is something different, I will probably vote for the bill, but where is the public good? The employers and courts have the responsibility when they hire these people. It seems government is being used to further the aims of an association. I have a hard time buying this. It will increase the bottom line of state government and we have an anxious public looking at the cuts versus what the budget was last year. A lot of these will have a cumulative effect. I wish there was some way to address it differently.

426 CHAIR SCHOON closes the public hearing on SB 41 A-Eng.

436 CHAIR SCHOON: The committee has received an invitation for lunch on Friday as guests of the Oregon Bankers Association. There will be no business conducted; it is simply a chance for members to ask questions about the industry.

TAPE 56, SIDE A

005 I am appointing three subcommittees:

Subcommittee 1 will be chaired by Rep. Barnes and will include Reps. Walden and Naito. They will deal with miscellaneous matters which don't fall into any particularly large group, but will include such things as finance matters relating to vehicles, alcohol, and tax matters.

Subcommittee 2 will be chaired by Rep. Stein and will include Reps. Rijken and Oakley. They will deal with insurance bills including health insurance. There will be some bills dealing with insurance, but not the makeup of insurance, that will go to Subcommittee 1.

I will be members of all three subcommittees.

Subcommittee 3 will be chaired by Rep. Rijken and will include Reps. Stein and Naito. They will deal with all the sunset legislation. We have a number of bills requesting new boards, registration and licensing and turf battles. Those will go to Subcommittee 3.

Subcommittee 1 will meet from 1:00 to 3:00 p.m. on Tuesday and Thursday. Subcommittee 2 will meet from 3:00 to 5:00 p.m. on Tuesday and Thursday.

I would hope the subcommittee chairs would take advantage of the extra hours on Tuesday and Thursday to further their efforts by appointing individual members to work with groups who want legislation, or are opposed to it or to further research bill before they come before the full committee.

Subcommittee 3 will meet in the mornings. There are only certain mornings where rooms and staff are both available. You can choose your own starting time.

TAPE 56, SIDE A

041 CHAIR SCHOON opens the public hearing on HB 2692.

HB 2692 - ESTABLISHES LICENSING REQUIREMENTS FOR DISPENSING OPTICIAN.

Witnesses: Dell Isham, Opticians Association of Oregon Orvin Drangstveit, President, Opticians Association of Oregon Robert Seeborg, himself and Vision Northwest Art Keil, Assistant Administrator, Oregon Health Division Bob Keyser, Oregon Optometric Association Charles Radebaugh, O.D. Ralph Sherman, Mobile Optical & Opticians Association Wolfgang Duvinage, himself Jeanine Quaintance, optician Petrie Story, Program Director, Portland Community College

The Preliminary Staff Measure Summary (EXHIBIT G) and Legislative Fiscal Analysis (EXHIBIT H) are hereby made a part of these minutes.

053 DELL ISHAM, Opticians Association of Oregon, submits and paraphrases a prepared statement in support of HB 2692 (EXHIBIT I).

153 ORVIN DRANGSTVEIT, President, Opticians Association of Oregon, submits and reads a prepared statement in support of HB 2692 (EXHIBIT

J).

217 Issues discussed: >Relationship of opticians with doctors and Board of Optometry. >Exemption for ready-to-wear eye glasses is in Board of Optometry law. >Prescription is required from optometrist or ophthalmologist for corrective lenses. The intent is to better qualify the optician who fills that prescription. >Quality of work of opticians. >Consumer protection and recourse through the board. >Educational/experience requirements for licensing.

TAPE 55, SIDE B

013 ROBERT SEEBORG, representing himself and Vision Northwest: I visit with people involved in 36 support groups of people who are coping with vision loss. Those folks share a great deal amongst themselves. People have indicated to me and each other that they had been informed by an optician that there was no need for them to wear glasses. I disagree with them, having visited with a licensed optician who knows his business. I am interested in saving the precious vision I have. By doing what my optician suggests of wearing lenses, my eyes will be more relaxed and my vision will probably last longer than with the naked eye.

I urge you to pass the measure for the welfare of the citizens of Oregon.

064 Issues discussed: >Optometrists' and ophthalmologists' area of practice

159 ART KEIL, Assistant Administrator, Oregon Health Division: The division does not take a position on the establishment of boards in the Health Division. There are 23-24 health-related boards in the division. There is only one concern in the bill: section 19 where it specifies start up funds. It is not typical that a board request agency funds for start up; that is usually done by the Legislature appropriating start up funds to be paid back to the Legislature. The other option would be for the opticians to pay an initial fee to allow it to start up.

193 REP. BARNES: In Section 20, line 25 sets the civil penalty of \$100 to \$1,000 but doesn't say who can do that and (8) on page 6 says, "To grant or refuse to grant licenses as provided in this chapter and to impose any of the sanctions for any of the causes specified in ORS 683.140." Does that give this new board the authority to impose a civil penalty? We might want to have this checked out.

222 BOB KEYSER, Oregon Optometric Association, introduces Charles Radebaugh: On page 6 of the bill, the reference to ORS 683.140 is the reference to the Optometric Practices Act. When they refer to the board in this chapter, 683.010, board means the Oregon Board of Optometry. Citing that chapter in the bill is probably not helpful to what they are trying to accomplish.

A comment was made on the relationship of opticians to the Board of Optometry. In 1989 the definition of dispensing optician was put in ORS 683.010. Prior to that they were not defined.

I want to comment on the cost of creating a new board. We are not sure how many opticians are in the state, but we feel the cost of starting up a board is substantial and it may not be the best use of tax dollars.

278 CHARLES RADEBAUGH, O.D.: There are services available for the gentlemen with low vision. Pacific University has an extensive low vision clinic that provides services for his type of problem. The Oregon Optometric Association has a low vision kit which we lend to practitioners to try with patients to see if we can help.

We are in favor of licensing for opticians. It a is good means to protect the public and maintain quality of care. I think we have some reservations and concerns about the bill and how it is written.

He submits and reviews an outline of testimony in opposition to the provisions of HB 2692 (EXHIBIT K).

398 REP. STEIN: Does the bill, as it is constructed, expand the scope of what opticians are expected to do beyond dispensing and fitting.

407 DR. RADEBAUGH: The language says "certified contact lens fitters," "requirements of contact lens examiners"--my opinion is this bill goes beyond dispensing contact lenses. I think you want to define in the law specifically what is going to be covered by the statute. I am suggesting that contact lens fitting is not an appropriate thing to be covered by the statute.

425 REP. STEIN: Is it illegal for an optician to fit contact lenses?

428 DR. RADEBAUGH: Technically yes, but it is hard to discipline an unlicensed person. I think the Board of Optometry has numerous examples of opticians fitting contact lenses without a license. I don't think they have successfully prosecuted any recently.

TAPE 56, SIDE B

001 DR. RADEBAUGH: continues with statement on potential of corneal ulcers as a result of improper contact lens.

053 SEN. BARNES: On page 1, line 11, are we talking about contact lens?

055 DR. RADEBAUGH: I think so. You also need to define "appurtenances." I think it could be construed that this bill would allow contact lens fitting by opticians. I think the easiest way to solve that is to specifically exclude it.

059 REP. BARNES: On page 2, lines 11 and 13, is the experience indicated about right, an over kill or insufficient?

052 DR RADEBAUGH: I think it is reasonable, but I think levels of experience are varied. I think if the person had three years experienced coupled with a qualified educational program, it would be appropriate.

071 REP. NAITO: It appears one option would be taking a written examination. What would a written examination test?

076 DR. RADEBAUGH: A written examination would be geared toward an understanding of optics, materials and options. The practical side is practice.

086 CHAIR SCHOON: If a prescription has been written, is the question whether the prescription is wrong--how do you go about fitting the contact lens?

090 DR. RADEBAUGH: I think you have to think about contact lens fitting as an on-going process. We may change two or three different times until we find what we think will be appropriate for that patient. Then we will send the patient home for 10 days and then reevaluate the performance. We usually evaluate them over a three-month period. To me, contact lens fitting is not the initial prescription, it is the end result.

127 RALPH SHERMAN, Mobile Optical & Opticians Associations, submits and reads a prepared statement (EXHIBIT L) and explains a prescription form

and brochure on available materials.

318 TOM GREY, HillSB oro, summarizes a prepared statement in support of HB 269 2 (EXHIBIT M). The bill to license opticians is not according them a new scope of authority or practice. You might desire to give consideration to whether the scope of the practice is sufficiently technical, is the consumer sufficiently vulnerable and are the other features sufficient to warrant licensing. I suggest it is. It is a straight forward bill. It does not put any qualified optician out of work and it doesn't favor any particular branch of the optical industry.

It does not place limitations on advertising. It doesn't prohibit an optician from working for a private doctor, an optical chain or super store, an HMO or him or herself or by him or herself. It only ensures that the critical task of opticianry is practiced in a reasonably competent manner. This is primarily a bill for consumer protection. I think it ensures proper hiring practices. I urge you to give serious consideration to the bill.

TAPE 57, SIDE A

034 Given the critical tasks opticians perform and will continue to perform with or without licensing, it just makes good consumer sense to have some minimal standards that helps ensure that what they are presenting to the public is done properly.

064 CHAIR SCHOON: You said this wouldn't put qualified opticians out of work. What about the unqualified ones?

065 MR. GREY: Hopefully it would limit their activities. They would not be able to be licensed without examination. We feel that is essential to the integrity of the bill.

073 WOLFGANG DUVINAGE, representing himself, submits and reads a portion of his statement in support of HB 2692 (EXHIBIT N).

118 CHAIR SCHOON: What about the certificates that are currently available from the professional organizations?

MR. DUVINAGE: I am certified by the American Board of Opticianry. I am a fellow of the National Academy of Opticianry, a member of the Optician Association of American and Optician Association of Oregon. The certification by the American Board of Opticianry requires continuing education--13 CEUs in a three-year period. We have the national competency examination certification and we have the State of Washington license.

139 CHAIR SCHOON: Wouldn't it be just as appropriate for us to say a person could not practice optometry unless they are under the supervision of an optometrist or ophthalmologist?

146 MR. DUVINAGE: The certification by the American Board of Opticianry is not mandatory.

175 JEANINE QUAINANCE: I have been an optician since 1978. I am a fellow at the National Academy of Opticianry, a graduate of Portland Community College opticianry school with an Associates Degree, and ADO certification and a member of the Advisory Board for the Opticianry School at Portland Community College. It amazes that we have not had licensing in Oregon when 22 other states have licensing. California and Washington have licensing. We have been trying to get licensing for many years. When I hear statements like what is the potential harm, it makes me want to say why doesn't the Optometry Board go after the people who give the eye exams when you get your driver's license at DMV. She submits copies of a Willamette Week article on eye care (EXHIBIT O).

207 PETRIE STORY, Program Director, Portland Community College Opticianry, submits and reviews a prepared statement and course curriculum (EXHIBIT P) in support of HB 2692.

318 REP. BARNES: Do you have or could you design a short course to bring individuals up to speed even if they haven't been through your school?

343 MS. STORY: It depends on the individual. We have done lots of continuing education courses for all kinds of factions. We try to adjust each course to suit the needs of the people asking for it. We tailor make courses for people who request them. If they only need a course in a small area, we will teach that. If they need the whole thing, we encourage them to go to school.

377 CHAIR SCHOON closes the public hearing on HB 2692 and declares the meeting adjourned at 3:52 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins

Terry Connolly Assistant Administrator

#### EXHIBIT SUMMARY

A -HB 2774, letter, Department of Insurance and Finance B -SB 16, Senate Staff Measure Summary, staff C -SB 16, prepared statement, Gary Bruebaker D -SB 41, Legislative Fiscal Analysis, staff E - SB 41, Senate Staff Measure Summary, staff F -SB 41, prepared statement, Marilyn Coffel G -HB 2692, Preliminary Staff Measure Summary, staff H -HB 2692, Legislative Fiscal Analysis, staff I -HB 2692, prepared statement, Dell Isham J -HB 2692, prepared statement, Orvin Drangstveit K -HB 2692, outline of statement, Dr. Charles Radebaugh L -HB 2692, prepared statement and brochure, Ralph Sherman M -HB 2692, prepared statement, Tom Grey N -HB 2692, prepared statement, Wolfgang Duvinage O -HB 2692, Willamette Week article, Jeanine Quaintance P -HB 2692, prepared statement and course curriculum, Petrie Story