

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

April 23, 1991
P.M.

Hearing Room F 1:30
Tapes 69 - 70

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

MEMBER EXCUSED: Rep. Greg Walden

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

MEASURES CONSIDERED: HB 2208 WS HB 2310 WS HB 2210 WS HB
2207 WS HB 2141 WS HB 2327 WS HB 2436 WS

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TAPE 69, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:46 p.m., welcomes students from Perrydale High School and turns the gavel over to Rep. Rijken.

018 CHAIR RIJKEN opens the work session on HB 2208.

HB 2208 - AUTHORIZES ESTABLISHMENT OF FEES FOR AMENDMENTS OF ARTICLES OF INCORPORATION OF STATE CREDIT UNIONS AND PENALTIES FOR LATE ANNUAL REPORTS BY RULE OF DIRECTOR OF DEPARTMENT OF INSURANCE AND FINANCE.

011 TERRY CONNOLLY, Administrator, reviews the provisions of HB 2208 and subcommittee actions and notes the HB 2208-2 amendments (EXHIBIT A) are a revision of the HB 2208-1 amendments.

031 REP. BARNES: Our subcommittee held two hearings. We did have a series of amendments proposed by the credit union industry and had testimony from the banking industry. We made a number of changes to the credit union industry. He reviews the HB 2208-2 amendments (EXHIBIT A).

065 MOTION: REP. BARNES moves that the HB 2208-2 amendments BE ADOPTED.

092 REP. NAITO: By increasing the amount to \$500 we are providing some consumer protection because currently under the statute if there is an agreement between the parties, once an account becomes dormant they

don't have to pay interest on it. This is providing some protection to the person who may have an account and not be available to be contacted by the credit union. If they turn up after a prolonged absence, the person would be entitled to interest.

110 VOTE: CHAIR RIJKEN, hearing no objection to the motion, declares the amendments ADOPTED. REPS. SCHOON and WALDEN are EXCUSED.

111 MOTION: REP. BARNES moves that HB 2208, as amended, be sent to the Floor with a DO PASS recommendation.

114 VOTE: In a roll call vote, all members present vote AYE. REPS. SCHOON and WALDEN are EXCUSED.

CHAIR RIJKEN declares the motion PASSED.

119 CHAIR RIJKEN opens the work session on HB 2310.

(Tape 69, Side A) HB 2310 - REPEALS REQUIREMENT THAT PERSON FILING EFFECTIVE FINANCING STATEMENT WITH SECRETARY OF STATE'S CENTRAL FILING SYSTEM FOR FARM PRODUCTS ON CATTLE, HORSES OR SHEEP ALSO NOTIFY STATE DEPARTMENT OF AGRICULTURE OF FILING.

124 REP. BARNES: The HB 2310-1 amendments (EXHIBIT B) delete a number of statutes. Current law requires farmers to file financing statements with the Secretary of State and the Department of Agriculture. There seems to be a lot of paperwork and duplicated effort. The banking industry suggested it was only necessary to file with the Secretary of State. We heard testimony and I met personally with Mr. Brawner and a representative of the Secretary of State's Office, Department of Agriculture and the Oregon stockmen association and we decided it probably isn't necessary to have the Department of Agriculture involved. We agreed to delete not only the fee requirement but also the responsibility of the Department of Agriculture.

153 MOTION: REP. BARNES moves that the HB 2310-1 amendments BE ADOPTED.

158 VOTE: CHAIR RIJKEN, hearing no objection to the motion, declares the amendments ADOPTED. REPS. SCHOON and WALDEN are EXCUSED.

160 MOTION: REP. BARNES moves that HB 2310, as amended, be sent to the Floor with a DO PASS recommendation.

161 VOTE: In a roll call vote, all members present vote AYE. REPS. SCHOON and WALDEN are EXCUSED.

165 CHAIR RIJKEN declares the motion PASSED.

168 CHAIR RIJKEN opens the work session on HB 2210.

(Tape 69, Side A) HB 2210 - REVISES STANDARD VALUATION LAW. Witness: Jim Swenson, Insurance Division

169 REP. BARNES: There is a hand-engrossed bill (EXHIBIT C) (containing the HB 2210-1 (EXHIBIT D) and HB 210-2 amendments (EXHIBIT E)).

171 JIM SWENSON, Administrator, Insurance Division, Department of Insurance and Finance: HB 2210's primary focus is to enhance solvency surveillance of the insurance industry within Oregon. >It requires an annual independent CPA audit for all insurance companies and requires an enhanced actuarial opinion for life insurance companies. > The HB 2210-1 amendments incorporate Section 34b which permits a reciprocal insurer to hold real estate as an asset directly, rather than having to hold it through a holding company arrangement. Insurance companies, in general, are permitted to hold real estate assets. This would specify that a

reciprocal insurer, which Farmers Insurance Company is, would be permitted to do so. We look at this as a friendly amendment. It merely clarifies what we believe they are already legitimately permitted to do. >The HB 2210-2 amendments were proposed by the Insurance Division. Many are housekeeping. The amendment to place a limitation on the length of time a CPA may be permitted to conduct a review for a single insurance company is to assure that a CPA would not ultimately be controlled by the insurance company. >On page 13, the amended formula clarifies how the interest rates are to be calculated for valuing life insurance policies. >The amendments have been carefully reviewed by the industry, including the American Council of Life Insurance which is a team of actuaries and have found that the amendments are appropriate. >The third set of amendments (EXHIBIT F) was proposed by Rep. Naito. On line 17 of the printed bill, we specify if the director issues an order to an insurance company to cure an impairment, we would wish to reserve the right to maintain the confidentiality of that order if the insurance company has a reasonable prospect and a good plan to cure the impairment. An impairment is a situation where an insurance company does not have assets sufficient to cover its liabilities and required capital. Many times we find that an insurer with an impairment has already developed a significant and appropriate plan for curing the impairment. Where they have a credible plan we would wish to maintain the confidentiality of our order. Rep. Naito expressed some concern about the unlimited time that this privilege would be afforded to the director. We are proposing an amendment that would specify that we may withhold from public information the order for such time as the director considers appropriate, " but not exceeding the time prescribed by the director for making the amount of the impairment good".

346 The last amendment (EXHIBIT G) is added on page 19 of the printed bill, after line 31. Section 15 requires CPA audits for insurance companies. Following the hearing we have had dialogue with the State Accident Insurance Fund. They are subject to a number of examinations. One very thorough examination is conducted by the Secretary of State. We are suggesting an amendment be added that would specify that for each year the Secretary of State conducts an audit of SAIF, under ORS 297.210, the director may accept the audit and a copy of the Secretary of State's audit report in lieu of the requirements of Section 15 if the director determines the purposes of Section 15 are adequately served by the Secretary of State's audit and report. The Secretary of State shall file a copy of its audit report with the director. The Secretary of State's office conducts an audit which is as comprehensive if not more comprehensive than an independent CPA audit. We are satisfied with the nature of the audit they conduct.

379 MOTION: REP. BARNES moves that the #2 and #3 amendments be included in the hand-engrossed bill.

REP. BARNES withdraws his motion.

415 MOTION: REP. BARNES moves that the committee adopt the HB 2210-1, HB 221 0-2 and the #2 and #3 amendments submitted by the Department of Insurance and Finance (EXHIBITS D, E, F AND G).

460 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. REP. WALDEN is EXCUSED.

462 MOTION: REP. BARNES moves that HB 2210, as amended, be sent to the Floor with a DO PASS recommendation.

468 CHAIR SCHOON: We will require a review of the new amendments to make sure they are precisely the same as the ones adopted before the bill is sent to the Floor.

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

WALDEN is EXCUSED.

479 CHAIR SCHOON declares the motion PASSED.

TAPE 70, SIDE A

028 CHAIR SCHOON opens the work session on HB 2207.

HB 2207 - AUTHORIZES DIRECTOR OF DEPARTMENT OF INSURANCE AND FINANCE TO SET CERTAIN FEES BY RULE.

030 MR. CONNOLLY reviews the provisions of the bill and subcommittee activities. Subcommittee No. 2 adopted the HB 2207-1 amendments (EXHIBIT H).

036 REP. STEIN: HB 2207 brings this in line with procedures that are used in the rest of the department for setting fees, which is to allow them to be set by rule. To accommodate the concerns of the committee, the amendments allow the department to fix the fees within a limit. If there are any excess fees collected, the money does go to the General Fund. We felt it was appropriate to bring all the fee setting statutes into conformance within the department.

048 REP. OAKLEY: I voted against this in subcommittee because I have a concern about the potential fee increase.

052 CHAIR SCHOON: The whole fee area, as well as other areas, aren't very well defined for us as an organization to deal with. Each committee ends up making policy for the Legislature. I will recommend to the Speaker that during the interim the Legislature look at how we deal with fees--do we cap them, leave them uncapped, put an upper limit, or do we let Ways and Means set the amount according to the need.

070 REP. BARNES: I don't feel comfortable about letting state agencies set their own fees and I don't think we shouldn't delegate it. But how will we bird-dog it to make sure the fees are in alignment with what it costs the agency to administer that portion. I think we should have a policy on how we are going to monitor these things. Agencies of state government should be reimbursed for the actual costs; they should not make money. We may have a situation where they are making money and I suspect with Ballot Measure 5 and its implications, they are making money and we may have agencies that are not charging enough. I don't feel too comfortable and don't know what the workload would be on the Legislature if we went over all fee schedules every two years. I am not sure putting a cap on the fees is the answer either.

087 CHAIR SCHOON: I think we had an example of that last week with the Secretary of State's bill where they were increasing the amount of money they provided to the General Fund by \$2 million. They were clearly exceeding the cost of the function. We would have been taking an isolated action to change a policy and therefore I voted for it.

095 REP. BARNES: I did too, but didn't feel comfortable with it. I think we have to be up front with the people. We should require they reimburse the state through application fees for the costs. In some cases where the state is requiring something as a matter of public policy, then all of society should help bear part of the cost and part of the cost should come out of the General Fund.

102 REP. STEIN: These fees are set by the director but must be approved by either the Ways and Means Committee or the Emergency Board. It is not completely without oversight by the Legislature.

106 MOTION: REP. STEIN moves that the HB 2207-1 amendments BE ADOPTED.

135 VOTE: In a roll call vote, REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES and OAKLEY vote NO. REP. WALDEN is EXCUSED.

138 CHAIR SCHOON declares the amendments ADOPTED.

139 MOTION: REP. STEIN moves that HB 2207, as amended, be sent to the Floor with a DO Pass recommendation.

145 VOTE: In a roll call vote, REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES and OAKLEY vote NO. REP. WALDEN is EXCUSED.

147 CHAIR SCHOON declares the motion PASSED.

CHAIR SCHOON will lead discussion on HB 2207 on the Floor.

160 CHAIR SCHOON opens the work session on HB 2141.

(Tape 70, Side A) HB 2141 - SEPARATES CERTAIN LICENSING BOARDS FROM HEALTH DIVISION. Witnesses: Art Keil, Health Division

168 MR. CONNOLLY reviews provisions of the bill. Subcommittee No. 3 adopted the HB 2141-3 amendments (EXHIBIT I) which would delete the provision for the State Board of Barbers and Hairdressers from the bill.

187 Issues discussed: >Reduction in expenditures of boards being removed from Health Division. >Reduction of accounting workload in Health Division. >HB 2141-3 amendments (EXHIBIT I) delete the Barbers and Hairdressers from the bill and would therefore remain in the Health Division.

237 ART KEIL, Health Division: There were negotiations with the Board of Barbers and Hairdressers and the conclusion was they would prefer to remain in the Health Division. We agreed and they will maintain their present status.

245 CHAIR SCHOON: Why is it a better decision to leave them in the Health Division if it is a good decision to take the other boards out.

246 MR. KEIL: It was a matter of the board saying they enjoyed the relationship with the division and want to retain that. It is a little different than some of the other boards. They are a separate agency. When the Department of Commerce was disbanded, the Barbers and Hairdressers came to the Health Division. They have a separate agency number from the division and felt a comfort level of remaining within the Health Division. There is a fiscal savings of one FTE to the Health Division as a result of this bill.

276 MOTION: REP. RIJKEN moves that the HB 2141-3 amendments BE ADOPTED.

281 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. REP. WALDEN is EXCUSED.

283 MOTION: REP. RIJKEN moves that HB 2141, as amended, be sent to the Floor with a DO PASS recommendation.

285 CHAIR SCHOON: We will try to do this without a referral to Ways and Means, but it may be referred back.

290 VOTE: In a roll call vote, all members present vote AYE. REP. WALDEN is EXCUSED.

293 CHAIR SCHOON declares the motion PASSED.

294 CHAIR SCHOON: Rep. Rijken will lead discussion on the Floor.

(Tape 70, Side A)

280 CHAIR SCHOON opens the work session on HB 2327.

HB 2327 - CONTINUES SANITARIANS REGISTRATION BOARD

305 MR. CONNOLLY reviews the provisions of HB 2327.

324 MOTION: REP. RIJKEN moves that HB 2327 be sent to the Floor with a DO PASS recommendation.

326 VOTE: In a roll call vote, all members present vote AYE. REP. WALDEN is EXCUSED.

330 CHAIR SCHOON declares the motion PASSED.

(Tape 70, Side A)

336 CHAIR SCHOON opens the work session on HB 2436.

HB 2436 - REMOVES FIXED FEE SCHEDULE FOR X-RAY MACHINE REGISTRATION.
Witnesses: Art Keil, Health Division Jan Dean, Executive Department

359 MR. CONNOLLY reviews the provisions of the bill.

353 ART KEIL, Health Division: The memo (EXHIBIT J) was developed at the request of the subcommittee. My understanding was that the subcommittee wanted to look only at the xray program and the costs related to the xray program. The division developed this memo indicating that if fees were raised from the General Funds withdrawn from the xray program, this is how it would relate with the total amount of General Fund and the FTE portion of a fee to build up to the \$436,280 needed to supplement the General Fund being withdrawn from the agency's budget.

On the second page of the memo are the actual areas being reviewed, the current fee and what the fee would have to go up to in order to generate the \$436,280.

413 CHAIR SCHOON: In the Governor's budget General Fund moneys are being cut and this is an attempt to raise fees to cover the costs of the services.

415 MR. KEIL: That is correct. This was a bill initiated by the Executive Department to take the place of General Fund fees. Jan Dean of the Executive Department can also speak to the issue.

427 MR. CONNOLLY: The bill does not have a subsequent referral to Ways and Means, however, Ways and Means has indicated they would like to review this bill in order to determine the expenditure limit.

TAPE 69, SIDE B

018 REP. RIJKEN: Would the fees indicated on page 2 of the memo cover the costs of the program?

019 MR. KEIL: There are two ways to look at it. There is a cash flow figure indicated on the first page of \$134,119. That is the amount that enables the division to have cash flow before the actual fees come in. There is an additional sum of money that is fee generated of \$25, \$30 and \$40 that runs the other half of the program. The program is funded by General Funds for approximately one-half of the program and by fees for the other half. This would fund the General Fund half of the program.

The fees would cover the entire program.

031 REP. OAKLEY: The fee increases would not only cover the service you provide, but also go above and beyond that to cover shortfalls in lieu of Ballot Measure 5.

036 MR. KEIL: The \$134,119 is just for cash until the fees come in.

042 REP. OAKLEY: I receive a lot of phone calls and letters from dentists. Their feeling is they don't mind paying a fee increase if it goes to check their machines, but they are opposed to paying for subsidy of the department.

042 JAN DEAN, Executive Department: In the Governor's recommended budget the fee is set high enough to where it goes to fund things within the radiation program that are not actually a part of this program. The memo was prepared by the Health Division in response to that concern. The Governor's budget pulls General Funds from other radiation control program and funds the Maternal and Child Health Program with those General Fund dollars.

070 MR. KEIL: The fees indicated on the memo would only fund the xray portion of the radiation department.

111 REP. OAKLEY: When were the fees last increased?

112 MR. KEIL: The last fee increase was last biennium. Dental xray fees were raised from \$15 to \$30. When the original program was set up, there was a negotiated amount of how much General Fund and how much fee money went into it. The fees indicated in the memo would eliminate the state-wide subsidization of the xray fee. When it went from \$15 to \$30, it still was less than 50 percent of the actual cost of the xray program.

Issues discussed: >Registration and inspection of xray machines.

232 REP. STEIN: Is the \$91,660 program administration for all four programs listed, or is it the amount allocated only for the xray program?

234 MR. KEIL: "It is the latter."

237 RAY PARIS, Health Division: We charge a registration fee for xray machines. That fee covers our inspection activities. We do not charge an inspection fee. >Dental machines are inspected once every three years. >Medical machines are inspected annually. >Veterinarian machines are inspected every three years. >Annual registration fee of xray machines is the only charge. >With one less inspector, the inspection frequency would increase to probably four years, rather than three. There are 6,000 xray machines statewide; 3,400 or so are dental machines.

421 MS. DEAN: General Fund agencies are given General Fund dollars to meet personal services needs. In this case the agency would be given the expenditure limitation and there would be no funds to make those payments. In addition, the greater concern is the inflationary one. If we propose a fee that supports only existing program levels, you will see the Health Division back here probably next year unless there is a general tax overall and General Fund money is once again back to other levels. This allows them an inflationary carry-over for the program for hopefully a couple of bienniums.

The Governor's budget has this fee set at \$100. It was going to provide for the pieces (of the program in the memo) but in addition it was going

to back fill General Fund in the other three programs that are a part of Radiation Control, but not part of the xray program. Those General Fund dollars would be used for the Material Child Health funding. You are considering a lower level than the Governor's recommended budget was based on.

TAPE 70, SIDE B

013 CHAIR SCHOON: Why did the Governor take the position out.

MS. DEAN: It was taken out because it is supported by General Funds. The Health Division had a number of program reductions and eliminations in their budget. This was seen as a program, in light of tight General Funds and the Governor's feeling, that should be paid for by the participants who receive the benefits of the program.

Ways and Means is aware of this bill and have been waiting for it. We have cut the position from the budget. If this bill is passed, a separate budget report will be written to show the position and the funds involved.

029 CHAIR SCHOON: I will support an amendment to include in the bill the fees listed on page 2 of the memo (EXHIBIT J).

054 REP. BARNES: I will probably vote against this because I think we have a shift in policy that we have not delved into enough. I think we are shifting from a fee base to tax base. We are using the Health Division, a service organization, as a revenue generator for the General Fund. I have some problems with that. It should be the other way around. They are a public safety organization and if anybody should get General Funds, it should be that organization. I think if we go by the rule of the division with approval of the Executive Department provision we are relegating our responsibility.

068 CHAIR SCHOON: I agree with what Rep. Barnes is saying. Will any of this money go to the General Fund?

069 MS. DEAN: No. Revenues generated from these fee increases will remain within the Health Division.

075 REP. STEIN: I think we are saying people are going to pay their own way; we are not subsidizing them. If they want to make money from these machines, they will pay for their inspections. I think it is important we have these programs and right now they are going to have to pay their own way.

080 REP. NAITO: I agree with Rep. Stein and feel we are performing balancing acts in some areas such as necessary food items. It is not necessarily appropriate that they pay their own way. Here we are dealing with a fee that includes health care and we would not want to increase the fees and the cost of health care, but on the other hand they are capable of passing these fees on with minimum impact. I believe the program should be self-supporting without General Fund dollars especially when those funds are desperately needed for other programs where people cannot raise fees or do anything to help themselves. I will support the proposed fee increases.

096 MOTION: REP. RIJKEN moves that HB 2436 be amended to set in statute the annual for microwave oven repair at \$55, dental xray machines at \$65 and other xray machines at \$70 and to delete the bold-faced language in lines 7 and 8 of the printed bill.

115 CHAIR SCHOON: The conceptual amendment would result in some of the deleted language in the bill being restored, also. Legislative Counsel will draft the proper language.

118 VOTE: In a roll call vote, REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES and OAKLEY vote NO. REP. WALDEN is EXCUSED.

120 CHAIR SCHOON declares the motion PASSED.

121 MOTION: REP. RIJKEN moves that HB 2436, as amended, be sent to the Floor with a DO PASS recommendation and that the bill be referred to the Committee on Ways and Means.

126 VOTE: In a roll call vote, REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES and OAKLEY vote NO. REP. WALDEN is EXCUSED.

127 CHAIR SCHOON declares the motion PASSED.

130 CHAIR SCHOON: HB 2333 will be postponed until Thursday.

135 CHAIR SCHOON declares the meeting adjourned at 3:21 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins

Terry Connolly Assistant

Administrator

EXHIBIT SUMMARY

A -HB 2208, HB 2208-2 amendments, Oregon Credit Union League and Subcommittee No. 1 B -HB 2310, HB 2310-1 amendments, Oregon Bankers Association C -HB 2210, hand-engrossed HB 2210 with HB 2210-1 and HB 2210-2 amendments, Insurance Division and Farmers Insurance D -HB 2210, HB 2210-1 amendments, Farmers Insurance E -HB 2210, HB 2210-2 amendments, Insurance Division F -HB 2210, proposed amendments, Jim Swenson G -HB 2210, proposed amendments, Jim Swenson H -HB 2207, HB 2207-1 amendments, Finance and Corporate Securities, Department of Insurance and Finance I -HB 2141, HB 2141-3 amendments, Art Keil J -HB 2436, memo, Art Keil