

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 JUDICIARY CIVIL LAW AND JUDICIAL ADMINISTRATION

May 30, 1991Hearing Room 357 1:00 p.m.Tapes 112 - 114

MEMBERS PRESENT:Rep. Ray Baum, Chair Rep. Marie Bell Rep. Tom Brian  
Rep. Kelly Clark Rep. Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix  
Rep. Randy Miller

STAFF PRESENT: Greg Chaimov, Committee Counsel Jim Dole,  
Committee Counsel Evie Redler, Committee Assistant

MEASURES HEARD:HB 3226 (PUB) HB 2014 (WRK) SB 722 (PUB AND WRK)

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TAPE 112, SIDE A

004 ACTING CHAIR MANNIX: Opens Subcommittee on Civil Law and Judicial Administration at 1:30.

HB 3226 PUBLIC HEARING WITNESSES: Rep. Parks Judge L.A. Merryman, Circuit court judge Judge Al Norblad, Circuit court judge Ted Abrams, Retired judge Jim Edmonds, Lawyer Judge Greg Foote Judge Ann Aiken Charles Williamson, OTLA Keith Burns, Oregon Courts

GREG CHAIMOV: Introduces HB 3226.

REP. PARKS: Submits written testimony (EXHIBIT A) and proposed amendments (EXHIBIT B). Testifies in support of HB 3226. -Reduces expense by deleting court reporters. -72 out of 86 courts still use court reporters. -Provides for a phase in with three parts.

075 JUDGE L.A. MERRYMAN, CIRCUIT COURT JUDGE: Testifies in support of HB 3226. Has been using cassettes to record hearings since 1982. -Never have a problem with employees being sick. -Relieves problems of two people speaking at once.

JUDGE AL NORBLAD, CIRCUIT COURT JUDGE: Testifies in support of HB 3226. Audio/Visual is much more effective for all involved except the lawyers.

Submits a video tape for the committee to view how the system works.

REP. BRIAN: Are the videos remote controled?

NORBLAD: There is one button to push to turn it on, and one to turn it off.

REP. MILLER: Is this more difficult to transcribe from?

NORBLAD: No, it is actually easier to work from.

REP. CLARK: What was the final plea on this issue (from example video)?

NORBLAD: The final plea was sex abuse. -Many people have used these tapes, from law schools to lawyers.

REP. MANNIX: Do you keep extra tapes?

NORBLAD: We have two tapes of each hearing.

REP. BRIAN: What is the cost?

NORBLAD: Less than \$5,000 year.

TED ABRAMS, RETIRED JUDGE: Testifies in favor of HB 3226.

MERRYMAN: Much easier to transcribe off of the video.

REP. MILLER: Why can't the convicted record the the hearing themselves?

MERRYMAN: Never had anyone want to.

REP. BRIAN: Make recommendations regarding audio or visual.

MERRYMAN: Have been using audio system, at a price of \$4500, for the last 7 years.

REP. PARKS: The amendment is to allow each court to decide which they would like.

NORBLAD: We experience appeals in which we need to use the tapes and videos.

Tape 113, Side A

020 JIM EDMONDS, LAWYER: Testifies in opposition to HB 3226. Not solely lawyer convenience. The cost will need to be put on the litigants.

REP. MANNIX: Can't speed read a video tape. Are there any lawyers in favor of this measure?

EDMONDS: When two people are talking at the same time it is difficult for the jurors to hear and action should be slowed down.

JUDGE GREG FOOTE: Testififies in opposition to HB 3226. Experienced both systems. -Court reporter will know when they have the recording. You can't tell with videos until after the fact. -Wave of the future is leading to computer assisted court recordings. -Other ways to save

money.

120 JUDGE ANN AIKEN: Testifies in opposition to HB 3226. -Served as the chief clerk to the house in 1983. -When a tape is inoperable it is impossible to use and create a record.

184 CHARLES WILLIAMSON, OTLA: The purpose of recording a court case is not for entertainment. It's use is for appeals or other relating court cases.

225 KEITH BURNS, OREGON COURT: Testifies in opposition to HB 3226. Submits testimony (EXHIBIT C). -Half the time the tapes do not work.

HB 2014- WORK SESSION WITNESSES: Rep. Calouri Walter Pendergrass Dave Fananke Vic Mann, City of Eugene Dale Penn, District Attorney Frank Brawner, Banks

389 GREG CHAIMOV: Explains HB 2014.

Tape 112, Side B

043 GREG CHAIMOV: Explains an amendment to the amendments. Line one, page four "30 day" period should be "20 days".

REP. CALOURI: Testifies in favor of HB 2014. -Ineffectiveness of the present system dealing with these drivers. -Save money.

074 REP. CLARK: This is not a forfeiture bill because it is a simple impoundment?

REP. CALOURI: Yes, that is correct. Have had amendments drafted. (EXHIBIT D)

CHAIR BAUM: Those crimes were not decriminalized.

REP. CALOURI: Differences in the amendments include the number of days which the car may be impounded.

135 WALTER PENDERGRASS, SELF: Testifies in favor of HB 2014. Attempt to get DWS cases out of the court system and into the administrative system.

170 REP. BRIAN: How would you feel about not having it mandatory?

PENDERGRASS: There is a provision that says that if it is not applicable at the time, the automobile may be impounded within 30 days.

REP. BRIAN: Page 1, draft 4, line 17; If circumstances make it impossible to seize the auto they could impound it within 30 days.

GREG CHAIMOV, COMMITTEE COUNSEL: If the police officer is not able to take the car at that time, they should have to take it later.

REP. BRIAN: The concern is that in smaller cities there may not be proper facilities. Should we make it mandatory?

REP. CALOURI: The assumption is that the auto will be impounded if the facilities are available. There is nothing said regarding where the impoundments need to take place.

258 REP. BRIAN: Your intent is that it be mandatory impoundment.

PENDERGRASS: Yes, it doesn't matter how long it is impounded for, just that it is impounded.

REP. JOHNSON: Do we want to make it mandatory to keep from only impounding random people or is there some other reason?

REP. CALOURI: Things should happen uniformly.

REP. JOHNSON: The mechanics of impounding vehicles, is it efficient in small towns where there is only one police officer for a radius of miles? Do you make the person who owns the car drive it to be impounded?

REP. CALOURI: Provide transportation for the person. Put in a call for a tow.

CHAIR BAUM: Questions the constitutionality of the amendments on page one, lines 13-19 and page two lines 1-2.

360 PENDERGRASS: I think that the bill is constitutional in the way it is written.

Tape 113, Side B

001 DAVE FANANKE: Discusses constitutionality.

024 VIC MANN, CITY OF EUGENE: Testifies in opposition to HB 2014 and provides written testimony (EXHIBIT E). -Who keeps track of the vehicles. -Cost to the city.

049 REP. BRIAN: If this were not mandatory would that be agreeable?

MANN: The problem with this bill is that there is no provision for more than one owner.

REP. BRIAN: Section regarding providing transportation for driver.

DALE PENN, DISTRICT ATTORNEY: Endorses the concept of this bill. Difficult for criminal justice to deal with these drivers. Probable cause could be an issue to deal with.

101 FRANK BRAUNER, BANKS: The towing and storage costs are a problem.

REP. EDMUNSON: Rental cars are not covered in this bill. If someone is driving a rental car.

BRAUNER: Probably couldn't get a rental car. Not real concerned with that issue.

SB 722- PUBLIC HEARING

GREG CHAIMOV, COMMITTEE COUNSEL: Introduces SB 722.

179 STEPHEN KAFOURY: Testifies in favor of SB 722. -If a building is never completed the architect would be responsible forever. -Discriminates between engineers and architects from contracting firms. -Adds specific limitations of two years. -Claims which occur after 6

years are not design flaws. They are usually frivolous or created by lack of maintenance. -Page one line 19 would like to change "10" years to "6" years.

PAT LUTZ: Testifies in favor of SB 722. The codes written represent minimum requirements. Most codes are designed with a low safety factor. Speaks in support of KAFOURY's amendments.

REP. BRIAN: Page one, line 10 refers to 10 years. Would that be consistent with what you would like to do?

LUTZ: Section one, subsection one would only be in reference to architects and engineers.

REP. MANNIX: Do you have any problem with surveyors being included here?

ALAN BENNETT: Submits and summarizes testimony in favor of SB 722 (EXHIBIT F) with amendments.

Tape 114, Side A

REP. BRIAN: Is there any specific reason to choose 6 years?

BENNETT: No. What we are looking at is just a time to know when the liability has run out.

CHAIR BAUM: There is still the ten year limitation in the bill.

058 CHARLIE WILLIAMSON: Testifies in opposition to SB 722. This bill has failed in prior sessions because it is a bad bill. -Submits a letter of testimony from David Rhoads (EXHIBIT G). -Gives architects special treatment. Most cases are made before the six years are up, however 10 percent of the claims are made after 10 years and should still have the chance to make a claim.

REP. CLARK: You would not support the idea of giving this limitation to construction.

127 CHAIR BAUM: Would you support the bill without the amendments?

MOTION: Rep. Mannix moves to adopt the land surveyors amendments to SB 722 which would, on line 14, take out "or".

VOTE: Hearing no objections, Chair Baum so moves.

MOTION: Rep. Mannix moves to adopt the dash A4 amendments (EXHIBIT H) (LC 306 4) dated 5/28/91 to SB 722.

VOTE: Hearing no objections, Chair Baum so moves.

MOTION: Rep. Mannix moves to amend the bill by adding provisions of HB 272 1.

VOTE: Hearing no objections, Chair Baum so moves.

MOTION: Rep. Mannix moves to amend the bill by changing 10 years to 6 years.

REP. EDMUNSON: Not convinced of reasoning. Don't want to make it

controversial.

CHAIR BAUM: Would assume that Kafoury would know if this amendments would hold things up.

KAFOURY: There is no one in the senate that would be surprised with this.

222 REP. CLARK: If we adopt this will it get through the Senate?

KAFOURY: Sen. Cohen does not yet know if she would concur on that.

VOTE: In a roll call vote the motion carries with a 4-3 vote. Representatives Brian, Edmunson and Bell voting NAY. Rep. Johnson excused.

MOTION: Rep. Mannix moves to amend SB 722 by changing 6 years to 8 years.

VOTE: In a roll call vote the motion fails with a 4-3 vote. Representatives Brian, Clark, and Mannix voting AYE. Representatives Edmunson, Miller, Bell and Baum voting NAY. Rep. Johnson excused.

MOTION: Rep. Mannix moves to send SB 277 to the full committee with do pass recommendation.

VOTE: In a roll call vote the motion carries with a vote of 6-1. Rep. Edmunson voting NAY. Rep. Johnson excused. Carrier is Rep. Mannix.

Testimony submitted for the record; On SB 722 (EXHIBIT I), on HB 2014 (EXHIBIT J) and (EXHIBIT K).

Chair Baum adjourns the hearing at 3:35 pm.

Submitted by

Reviewed by

Evie Redler

Pat Zwick

#### EXHIBIT LOG

A: HB 3226, Del Parks, 1 page B: Proposed amendments to HB 3226, Rep. Parks, 1 page. C: HB 3226, Keith Burns, 14 pages. D: Proposed amendments to HB 2014, Rep. Calouri, 11 pages. E: HB 2014, Vic Mann, 1 page. F: SB 722, Allen Bennett, 3 pages. G: SB 722, David Rhoads, 3 pages. H: Proposed amendments to SB 722, Staff, 1 page. I: SB 722, R. Charles Pearson, 1 page. J: HB 2014, Olivia Clark, 1 page. K: HB 2014, Valerie SalisB ury, 1 page.