

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

June 3, 1991Hearing Room 357 1:00 p.m.Tapes 115 - 117

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

VISITING MEMBER:Rep. Liz VanLeeuwen

STAFF PRESENT: Jim Dole, Committee Counsel Jeff Steve,  
Committee Assistant

MEASURES HEARD:HB 2732 PH/WS (Limits Tort Liability) HB 3283 WS  
(Prohibiting Political Payments) HB 3520 WS (Tort Claims) HB 2010 WS  
(Small Claims Actions)

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TAPE 115, SIDE A

005 CHAIR BAUM: Opens Subcommittee on Civil Law and Judicial Administration at 1:35 p.m. Opens public hearing on HB 2732.

HB 2732 - PUBLIC HEARING

010 DOLE: Reviews HB 2732. \*Limits liability of charitable organizations by adopting the liability limitation structure which exists in Oregon Tort Claims Act. \*Considerable discussion raised previous questions regarding insurance rates--proponents asked that bill be brought back to subcommittee to discuss issues.

020 CHAIR BAUM: Expresses committee's desire to get specific information about insurance problems--inability to get insurance or high costs. Recesses public hearing on HB 2732 and opens a work session on HB 3520.

HB 3520 - WORK SESSION

036 DOLE: Summarizes HB 3520. \*Makes several revisions to the way

people make tort claims against public bodies. \*Addresses some of the statutes relating to the functions of the Department of Insurance and Finance, Department of Corrections and the Psychiatric Security Review Board. \*Brings attention to amendments entitled "D.I.F. Proposed Amendments," (EXHIBIT A), "D.O.J. Proposed Amendments," (EXHIBIT B) and "County's Proposed Amendments" (EXHIBIT C).

049 JACK LANDAU, ATTORNEY GENERAL: Speaks to D.O.J. amendments (EXHIBIT B). \*1st--Changes current Tort Claims Act to permit law suits against agencies only, not the individuals. \*2nd--Makes sure the state is subject to the same statutes of ultimate repose that all other defendants in all other suits are subject to. \*3rd--Attempts to codify statutorily with majority rule and other jurisdictions with respect to liability of state governments so that the state is not liable when the state is sued for actions of 3rd parties who are not state officials. \*4th--Attempts to change the Tort Claims Act to remove the public duty rule from the statute of limitations that applies to actions against the state. \*5th--Spells out the discretionary function of exemption in the Tort Claims Act and specifies that certain types of decisions are, in fact, discretionary and subject to immunity under the Tort Claims Act.

086 CHAIR BAUM: Clarifies that the committee had no objection to the first page of HB 3520. Suggests removing bold-faced language, lines 37-39, page 3.

107 REP. BELL: Discusses liability to the individual in C.S.D. who makes a decision to leave a child in a home where there has been abuse in the past.

114 LANDAU: To the extent that the statutes spell out some duty that a C.S.D. worker has violated, there would be a lawsuit and no liability; to the extent that liability is based on the action of some third party, and there is no duty that is spelled out in the statute, there would be no liability based on the act of that third party. \*If the state should be liable for something, it should say so: spell it out in the statutes.

127 REP. BELL: Asks about a case where there has been a variety of reports to C.S.D. that a home contained an abuser--where the child was threatened--and a particular C.S.D. worker refused to listen to those reports. Wants to know what happens when the worker leaves the child in the home and the child is abused or maybe even killed.

135 LANDAU: If C.S.D. refused to deal with information, it seems that we're dealing with somebody who is willfully neglecting their duty; they would not be subject to defense, immunity or protection of the law in any event.

143 REP. EDMUNSON: If that was not the intent but instead the worker was just reckless, then that is covered under the new proposed bill.

147 LANDAU: There will be something that falls short of willful, wanton or reckless. That would not be covered by the statute and they would still be entitled to indemnification.

156 REP. EDMUNSON: Understands that the Tort Claims Act includes reckless conduct but not intentional conduct.

163 LANDAU: That is right and if you can come up with an example where you want to make a state worker liable for failing to act to protect someone, the Legislature should say so and make it clear; otherwise it

becomes an open-ended guessing game with respect to the limitless possibilities of liability.

186 REP. CLARK: Asks about DOJ amendments (probation/parole). \*"No public body or new officer...shall be liable for any act or omission..."--isn't that too broad?

195 LANDAU: Yes it seems broad; the drafters explain that the kinds of decisions you're talking about are the very archetype of discretionary decisions.

204 REP. CLARK: Asks about supervision instead of just decisions. Should there be an outright prohibition against liability if an agent fails to supervise somebody in work release?

224 LANDAU: It is a decision about how much supervision to impose depending on a whole host of circumstances that can never be anticipated by way of statute; it always involves discretion.

235 REP. CLARK: We passed a bill in the Family Subcommittee dealing with sex offenders; it said when a convicted sex offender moves back to a victim's community, the victim would be notified of this move. Let's assume for the moment that this is statutory responsibility.

247 REP. BELL: Clarifies that the responsibility was on the victim to call in periodically and find out.

252 REP. CLARK: Assuming that there is wrong information given out--an act (line 3 of the amendment addresses "any act"), and the offender again commits a crime against the victim and the victim can prove that if they had known, they could have taken action. Doesn't think bill should outright prohibit any liability.

259 LANDAU: Such a decision, involving weighing a whole host of competing policy objectives, allocation of resources, trying to figure out what to do--with your time, your staff's time...how much supervision should be maintain over a person? That's a discretionary decision--the kind of thing that ought to be covered by immunity. \*There was nothing in this legislation intended to change the liability of the state when those mandatory obligations are not complied with.

279 REP. BELL: Asks about a way to reach a middle ground. \*On one side, with complete liability, C.S.D. might be taking children out of homes before they really should be taken out. \*If there is complete immunity, we may not force the issue to make the critical decisions. \*Wants to protect the citizenry and also allow the agencies to work in a productive manner.

294 LANDAU: I have proposed a middle ground, that the state, as a rule, is not liable for failing to warn somebody or take action to prevent some third party from committing a crime. If there are exceptions, you need to spell those out.

302 CHAIR BAUM: The page 3 "discovery rule" is probably gone from the bill at this time. Would like to salvage as much as possible. Says the "D.I.F. Proposed Amendments" (EXHIBIT A) has a chance of surviving. Asks for explanation of amendments.

325 REP. EDMUNSON: Also, if this section aided the proposed bill, would that affect any lawsuit by one agency against another?

336 LAURI SKILLMAN, DEPUTY ADMINISTRATOR, DIVISION OF FINANCE AND SECURITIES, DEPT. OF INSURANCE & FINANCE: Explains that the bill allows the state to not be liable for acts or omissions in the administration of the insurance code; the D.I.F. amendment adds the language: "or to the purchasers or..." (EXHIBIT A). \*We take a lot of enforcement action against persons and entities who sell unregistered securities when the people are unlicensed and are committing securities fraud. \*We've had actions taken out against us by people who were hurt in fraud cases. \*Another important part of the bill is the first section that takes out the individual liability, unless that person is acting outside their scope of employment. \*Our employers shouldn't suffer the hardships of being named in cases where they weren't doing anything they weren't supposed to be doing.

396 LANDAU and REP. EDMUNSON discuss HB 3520 as it relates to agency-to-agency lawsuits. LANDAU says he has never seen complaints for these situations. REP. EDMUNSON explains that if an auditor failed one year to catch a mistake within an agency, then the agency makes a claim against the auditor for negligence; that's far-fetched and stretches auditor liability. LANDAU answers that their proposal doesn't affect that. REP. EDMUNSON suggests language on line 7, page 4: "any act or omission in the audit of any agency or the administration of the insurance code." LANDAU says that may not be necessary. REP. EDMUNSON is concerned more with groups (the Secretary of State) rather than individual auditors. LANDAU maintains that the language would not be necessary for that. REP. EDMUNSON then questions the need for Section 8. LANDAU says Section 8 is needed because they defend a lot of suits involving the Insurance Commissioner and others mentioned in the bill. REP. EDMUNSON asks if there is now a defense under the Tort Claims Act for suits brought against insurance regulators. LANDAU clarifies that they just want to make clear in the law so that their defense cases will not be so time-consuming when pleading immunities.

TAPE 116, SIDE A

026 CHAIR BAUM: Clarifies that SAIF subject to the same tort limitations as the State of Oregon.

032 MOTION, CHAIR BAUM: Moves "D.I.F. Amendments" (EXHIBIT A) to HB 3520.

033 No objection. Motion passes.

034 MOTION, REP. EDMUNSON: Moves for language change on page 4, line 7 of HB 3520: "any act or omission in the audit of any agency or the administration of the insurance code."

041 CHAIR BAUM: Wants to do something more substantive; is wary about making state agencies immune from other quasi state agencies because of lawsuit complications.

046 REP. EDMUNSON: Says the problem was pointed out to him by a former deputy attorney general for the State of Oregon; he made it very clear that there was the potential cause of action. When auditors are auditing state agencies, state agencies shouldn't be turning around and blaming the auditors for the previous years' mistakes.

059 LANDAU: Still does not think that the change will make any difference.

070 REP. EDMUNSON: Just wants to make it clear.

074 No objections. Motion passes.

075 MOTION, CHAIR BAUM: Moves to strike out the bold-faced type on lines 37-39 of page 3, HB 3520.

080 No objections. Motion passes.

084 REP. BELL: Has a problem with the new section 1(g) (page 2, lines 8-11).

086 CHAIR BAUM: Wants to clarify that there is presently case law that deals with the failure to warn.

088 LANDAU: This is different. In page 2, line 8, we are talking about statutorily adopting the Public Duty Rule which Oregon courts do not follow at this point. The Public Duty Rule says that state agencies and officials cannot be liable for failing to protect the public from the acts of third parties over whom they have no control.

098 REP. BELL: Thinks that similar opposition will take place with this section as there was with the other bill.

105 MOTION, REP. EDMUNSON: Moves to delete bold face on page 2, line 8-11.

114 REP. BELL: Concerned about the lack of qualifiers in lines 8-11; it covers "any claim...". For the record, "In the sex offenses against children in rural areas, we often had testimony from people who had the feeling that there was this in-house sort of protection of each other and testifying for each other that, even though many people in the city were telling them that the situation was dangerous. This is kind of scary to me."

124 No objections. Motion passes.

125 REP. JOHNSON: Is anyone from the county here to explain the county's proposed amendments (EXHIBIT C)?

126 CHAIR BAUM: Is confused by the last sentence with those amendments. It appears that if they have no money to enforce the law, they can get off the hook if they can claim that the reason why they didn't do according to the law was because they had no money. I think this goes too far. I don't think there's any problem with the first sentence. Asks PAUL SNYDER if he would feel comfortable with the amendments moving without the last sentence.

145 PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES: The material before the last sentence is better than nothing.

152 CHAIR BAUM: Isn't the first sentence just statutory case law?

155 SNYDER: The preceding material is our understanding of what legislative intent was. There have been a host of court cases since then and this is our intent to clarify the language in accordance with our understanding of what was intended.

162 CHAIR BAUM: Are you willing to settle for lines 1-6 of your proposed

amendments?

165 MOTION, REP. JOHNSON: Moves Lines 1-6 of the "County's Proposed Amendments" (EXHIBIT C).

166 REP. BELL: Questions line 3--"choices among alternative courses of action"; would like to change to "choices among appropriate alternative courses of action". Otherwise, one of the alternatives is to do nothing or to do something negative. 178 LANDAU and REP. BELL further discuss the need for such language. LANDAU clarifies that the existing Tort Claims Act--the existing definition of discretionary function--includes the option of doing nothing. REP. BELL maintains that there are circumstances where that would not be an option.

198 REP. EDMUNSON: Asks about the language to change or alter the flow of traffic and whether that would include negligent construction design of highways and bridges.

206 SNYDER: Not sure what case law is with this situation. The primary intent is to identify the people who have the authority to exercise discretion within the meaning of discretionary immunity generally. The language to change or alter the flow of traffic is not designed to cover the design of the road.

216 REP. EDMUNSON: Maybe the list is confusing with the language "includes but is not limited to such decisions as". Maybe we should put a period after "action" and end with that.

221 REP. MILLER: Discusses new language on lines 3-6: Put an 's' after the word require up to the word "decision" in line 6, making it "a discretionary decision is one which involves choices among alternative courses of action and requires the exercise of independent judgement by the person making the decision."

231 MOTION, REP. JOHNSON: Moves REP. MILLER's suggestion as a friendly amendment.

238 DOLE: The proper language should refer to a discretionary function or duty rather than a discretionary decision. The first part of this amendment should read: "a discretionary function or duty is one..."

245 INFERRED MOTION, REP. JOHNSON: Moves REP. MILLER's friendly amendment with the change of "a discretionary decisions" to "a discretionary function or duty..."

246 No objections. Motion passes.

257 MOTION, REP. CLARK: Moves the D.O.J. amendments with changes: Line 3--between the word "any" and "act"--insert the word "discretionary"; Line 4--after the word "decisions"--place a period and delete the rest of the sentence.

270 REP. CLARK: To the motion. Wants to clarify that the phrase "any act" is modified to at least be any discretionary function or duty to be consistent. As for deleting verbiage after "decisions" on line 4: it seems that the decision relating to probation and parole, etc. is one thing but the actual supervision is another.

297 REP. BELL: If this section is not added to the bill, does that change the way the tort liability works?

299 CHAIR BAUM: They can argue under the general definition of discretionary function--it is probably already covered; this just makes it clearer.

304 REP. BELL: So victims under current law could go to court and argue their case, but with this provision they would have less opportunity to go to court and argue?

307 CHAIR BAUM: There has been some case law on this--especially in parole board conduct and releasing people. What this probably does is codify what the courts have already interpreted as a discretionary function to be in the area of probation parole, post-prison supervision, leave or work-leave decisions.

314 REP. BELL: Clarifies that this is not really a change with that.

324 No objections. Motion passes.

325 MOTION, REP. MILLER: Moves HB 3520 to the full committee as amended, do pass.

328 VOTE: Motion

AYE: REP. BRIAN, REP. CLARK, REP. EDMUNSON, REP. JOHNSON, REP. MANNIX, REP. MILLER, REP. BELL, CHAIR BAUM. NO: EXCUSED:

337 CHAIR BAUM: REP. EDMUNSON to carry the bill. Closes work session on HB 352 0. Opens public hearing on HB 2732.

HB 2732 - PUBLIC HEARING Witnesses:Rep. Liz Vanleeuwen, District 37 William Buck, Portland Christian Schools Dr. Dennis W. Mills, Association of Christian Schools, Inc. Mark Siegel, Oregon Federation of Independent Schools Lester C. Young, Assemblies of the Oregon District Dan McCulloch, Church of Seventh Day Adventists Charlie Williamson, Oregon Trial Lawyers Association Les Forney, West Hills Christian Schools Stan Baker, Santiam Christian School Mark Metzger, Eugene Christian Schools Tom Roads, YMCA

354 REPRESENTATIVE LIZ VANLEEUVEN, DISTRICT 37: Introduces HB 2732-1 amendments (EXHIBIT D). \*Many of the people involved in doing the work of the organization are non-profit. We put in the amendments the figures you were concerned about last time. \*Affects churches, youth organizations and private schools.

386 DAN McCULLOCH, SEVENTH DAY ADVENTIST CHURCH: This bill is a preventative

maintenance bill. \*Page 2, line 5--Section 2, subsection 5--this bill in no way exempts for gross neglect. \*All charitables are 90% driven by volunteers. \*Gives charitables a chance to carry on work without having to face horrendous tort suits. \*A single injury occurrence could easily cause them to close the doors and sell all the assets under the present statute. \*Urges favorable consideration of the bill and the amendments.

TAPE 115, SIDE B

015 CHAIR BAUM: We need to have specific instances of when you couldn't get insurance, or when someone was hit so hard that they lost services.

020 McCULLOCH: Some witnesses will give testimony that includes ranges of those instances. \*It's easier to come to consensus when there is tremendous abuse taking place than to look to visionary legislation like this. \*Boy Scouts here in Oregon faced a difficult suit but there was judgement there for gross neglect and they paid for that; but they also deal with a number of smaller liability problems.

037 MARK SIEGEL, PRESIDENT, OREGON FEDERATION OF INDEPENDENT SCHOOLS: Brings attention testimony and support signatures (EXHIBIT E & F). \*When schools look to recruit board members, the first question is about insurance coverage; that's a tough question when it involves \$3-5,000 for director/officer liability just for decisions they may make 4 times a year. \*Concern that, when they need to look for volunteers, insurance concerns take precedence. \*Addresses fears about adequacy of insurance.

070 TOM ROADS, YMCA: Supports bill and -1 amendments. \*Large concern that rates might rise so high it would be almost impossible to obtain insurance. \*YMCA offers lots of services with potentials for liability.

079 REP. BELL: We have non-profit organizations who are so intent on their cause that they might go onto someone's property continually. Wonders if the bill is being stern enough with groups having the kinds of causes where they feel justified in causing property damage.

092 REP. CLARK: Is supportive generally of charitable organizations. Is concerned about the breadth of the bill. \*Shouldn't there be a distinction between economic damages and non-economic damages for those people who suffer real dollars lost in instances of medical injury?

114 McCULLOCH: What is the state's position in using the state's limitations as established here given the same situation?

118 REP. EDMUNSON: The state provides welfare so that if medical costs go on beyond the limits of recovery, the person becomes a ward of the state.

124 McCULLOCH: Charitables have moral responsibility to deal with that, even though it's not statute.

131 REP. CLARK: It may well be that state policy ought to be changed but it's at least a logical distinction.

147 REP. MANNIX: We start off with a constitutional provision that says that the government's absolutely immune; an analogy to the government is probably not an apt analogy. \*I can understand no punitive damages; when you put caps on other forms of damages then you can't provide for those truly harmed. \*What if someone needed major medical help for a kidney transplant that resulted from an accident?

176 McCULLOCH: It is more far-reaching and visionary to look at the smaller abuses and possibility of abuses rather than dealing with the exception.

190 REP. MANNIX: You shouldn't make social judgements in terms of insurance. All you're doing is reducing the cost of your insurance by setting some caps; then you can go to insurance companies and get rates restricted. \*Why not go all the way--if this is a wonderful organization and there is no insurance, caps would apply; if you do have insurance then no caps apply.



210 SIEGEL and REP. MANNIX address the concern of proper insurance coverage. SIEGEL stresses that they need to come up with something that covers them more broadly. REP. MANNIX asks if they would consider limiting the liability in terms of the "actors"--saying there would be no limited liability for actions by volunteers but for paid employees, you would have regular liability. SIEGEL says that the pay is so minimal, it could cause a difficult situation.

268 WILLIAM H. BUCK, PORTLAND CHRISTIAN SCHOOLS: Gives testimony in favor of HB 273 2. \*An excess of judgement by a plaintiff would force the closure of Portland Christian Schools. \*Bill would encourage employees and volunteers to render services where they are currently cautious of potential liability claims.

291 LESTER YOUNG, ASSEMBLY OF GOD: Begins testimony in favor of HB 2732 (EXHIBIT G).

318 REP. EDMUNSON: Sexual misconduct and molestation are usually intentional conduct; does your policy cover intentional misconduct?

329 CHAIR BAUM: REP. EDMUNSON's right to point out that the person who perpetrated that probably was not acting within the scope of their employment. I would assume there are some allegations in there that would bring in the church supervisory board for failure to supervise, failure to train, etc. to get beyond the employee's conduct. Asks YOUNG to summarize testimony.

352 YOUNG: Wants to highlight the difficult situations. \*The liability cost may be as much as the property--maybe more in some cases.

368 DR. DENNIS W. MILLS, ASSOCIATION OF CHRISTIAN SCHOOLS: Speaks in favor of HB 2732 (EXHIBIT H), giving rates previously asked for from the committee. \*A local insurance representative quoted insurance rates: vary between elementary and secondary students--low of \$1 million for elementary (\$9.20/student) up to a \$10 million policy (\$15.90/student) for elementary; secondary begins at \$1 million policy (\$16/student) and \$10 million (\$27.60/student). \*Non-profits have been struggling with increased insurance costs.

TAPE 116, SIDE B

001 MARK METZGER, EUGENE CHRISTIAN SCHOOL: Speaks in favor of HB 2732. \*Am concerned about availability; considers this bill to be reactionary instead of visionary. \*Had an experience as a California administrator in losing liability insurance; school was canceled--not many companies willing to cover private schools. \*Sees interest rates going down again and wonders if companies will again become conservative about who they insure. \*Youth organizations severely affected.

043 LES FORNEY, PRINCIPAL, WEST HILLS CHRISTIAN SCHOOL: Speaks in favor of HB 273 2 (EXHIBIT I).

053 REP. EDMUNSON: Asks if any of the witnesses have had lawsuits filed against them in Oregon. They answer no. Suggests that this is the problem; insurance companies charging them as though they are at risk.

060 REP. MANNIX: Suggests putting in a provision that caps would be available only if they have a liability policy with an insurance company in place with coverage up to those limits. \*Gives example of neigHB or

child who was hurt at a private school. The mother had no money to cover the costs and the school can't help because they don't have insurance. Caps could be made but the trade-off would be that you would need to have an insurance policy in place for such cases.

079 METZGER: Agrees. Wants a cap on the insurance they already carry.

082 REP. BELL: Comments on lack of First Aid at school recreational sports' sites. Agrees that there needs to be responsibility for prevention along with limiting the liability for the actions that occur.

098 METZGER: I can't speak for kids' sports, except as a coach volunteer I received a packet of materials that dealt specifically with first aid instructions.

105 STAN BAKER, SANTIAM CHRISTIAN SCHOOL, CORVALLIS: Speaks in favor of HB 273 2, (EXHIBIT J). \*Also concerned with the issue of "how much is too much?"

143 CHAIR BAUM: Closes the public hearing on HB 2732 and opens a work session.

HB 2732 - WORK SESSION

146 CHARLES WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Is opposed to HB 2732. \*Everybody is in the same boat; we could all be in accidents whereby we are held liable for something beyond the insurance limits. \*Has problems with giving special treatment.

185 MOTION, REP. CLARK: Moves the conceptual amendment to the HB 2732-1 amendments to extend limits only to non-economic damages in HB 2732. Non-economic would have the same definition as in the Code of Civil Procedure on ORS 18.560 subparagraph (2b). This limits Section 2 of the bill to liability for non-economic damages of any charitable organizations.

203 REP. BRIAN: To the motion. Recognizing that charities are doing valuable work, it still makes sense to make this distinction. Clarifies that the numbers on lines 9-14 are Oregon Tort Claims limits.

227 No objections. Motion passes.

228 REP. MANNIX: Assumes that the amendment just adopted also excludes punitive damages. Punitives might be available in some instances but I guess economic damages only already addresses that issue.

247 REP. BELL: Thinks that punitives should be there for an organization that is considered a repeated offender.

251 REP. MANNIX: But the bill does not cover intentional acts, so punitive damages would be available for intentional acts.

257 MOTION, REP. MANNIX: Moves a conceptual amendment to include another restriction which is that the limitations on liability in this act shall apply only if the charitable organization maintains liability coverage for the charitable organization, its employees and its agents up to the limits specified in this act.

272 REP. EDMUNSON: Supports amendment.

288 No objections. Motion passes.

293 MOTION, REP. MANNIX: Moves HB 2732 as amended to full committee with a "do pass" recommendation.

298 VOTE: Motion

AYE: REP. BRIAN, REP. CLARK, REP. EDMUNSON, REP. JOHNSON, REP. MANNIX, REP. MILLER, REP. BELL, CHAIR BAUM. NO: EXCUSED:

304 CHAIR BAUM: REP. CLARK to carry the bill. Closes work session on HB 273 2 and opens work session on HB 2010.

HB 2010 - WORK SESSION

323 JIM MARKEE, OREGON COLLECTOR'S ASSOCIATION: Have met with REP. EDMUNSON regarding prior concerns. \*Have drafted HB 2010-2 amendments addressing these concerns (EXHIBIT K).

333 MOTION, REP. EDMUNSON: Moves the -2 amendments to HB 2010.

335 No objections. Motion passes.

337 WILLIAM LINDEN, STATE COURT ADMINISTRATOR: Has same objections as on the

original version of HB 2010. \*It allows private parties to use the power of authority in the name of the court to enforce a legal obligation at a point in time that will leave the debtor with the impression that they've been sued. \*We shouldn't allow them to "pretend" they've sued that person. \*We're dealing with changes to ORCP that have never been looked at or touched by the counsel and court procedures.

357 REP. EDMUNSON: Understands, but the -2 amendments compel the filing of actions and force them to be locked into filing; main intent was to do away with the false filing.

375 MOTION, REP. EDMUNSON: Moves HB 2010 as amended to the full committee with a "do pass" recommendation.

381 VOTE: Motion

AYE: REP. BRIAN, REP. EDMUNSON, REP. JOHNSON, REP. MANNIX, REP. MILLER, REP. BELL, CHAIR BAUM. NO: REP. CLARK EXCUSED:

398 CHAIR BAUM: Closes work session on HB 2010 and opens work session on HB 328 3.

HB 3283 - WORK SESSION

404 MOTION, REP. MILLER: Moves the conceptual amendment to make the following change to HB 3283: \*To restrict the time when elected officials may get campaign financial support. When the polls close on election day, you're out of the solicitation business until after the close of the next regular legislative session.

435 REP. MILLER: The bill does include--which is current law--that the Governor is out of that solicitation business until 30 days following adjournment--from the close of the polling prior to the session until after sine die.

TAPE 117, SIDE A

018 REP. BRIAN: Does the language intend to say "shall not receive" after close?

021 REP. MILLER: For candidates, yes; also, no person shall promise or make a contribution. It goes both ways.

024 REP. BRIAN: Clarifies that solicitations made prior to election day might not actually land and be received until the day after.

030 REP. MILLER: Would be inclined to close the window at 8:00 p.m. on election day. \*If you're anticipating some late need for money, maybe you would budget your expenditures a little differently in a campaign. \*Trying to improve the amount of disclosure--there are plenty of contributions between December and the start of session that are never reported.

047 REP. MANNIX: Thinks this amendment is equally good and bad for Democrats and Republicans. I like the idea.

057 MOTION, REP. MILLER: Moves an addition to his conceptual amendment that the prohibition is 8:00 p.m. on election day instead of 30 days after election.

067 REP. BELL: Why did you abandon the beginning 30 days after the election concept?

069 REP. MILLER: Wanted to put an end to the people who try to make friends with big checks; if they want to do this, let's make them do it in front of the public and before the election.

082 REP. BELL: Wants clarification regarding disclosures and REP. MILLER'S reasoning behind it.

088 REP. MILLER: I'm more interested in the public having knowledge prior to the election so they can cast a vote based on who supported you and who didn't.

094 VOTE: Rep. Miller's Conceptual Amendment

AYE: REP. BRIAN, REP. CLARK, REP. JOHNSON, REP. MANNIX, REP. MILLER, REP. BELL, CHAIR BAUM. NO: REP. EDMUNSON EXCUSED:

097 MOTION, REP. EDMUNSON: Moves a conceptual amendment adding a section to HB 328 3, prohibiting carry-over of any cash in a campaign account of more than \$1,000, more than 30 days after the election. Any amount more than \$1,000 would be taxable income to the candidate.

109 REP. CLARK: Would that be prospective only?

111 REP. EDMUNSON: It should apply to future elections.

115 REP. MILLER: Assumes that if someone wanted to use the \$1,000 cash, that would be okay.

119 REP. EDMUNSON: Then their post-election expenditure report would show that.

126 VOTE: Rep. Edmunson's Conceptual Amendment

AYE: REP. BRIAN, REP. EDMUNSON, REP. MANNIX. NO: REP. CLARK, REP. JOHNSON, REP. MILLER, REP. BELL, CHAIR BAUM. EXCUSED:

131 MOTION, REP. MANNIX: Moves HB 3283, as amended, to the full committee with a do- pass recommendation.

VOTE: Motion

AYE: REP. BRIAN, REP. CLARK, REP. JOHNSON, REP. MANNIX, REP. MILLER, REP. BELL, CHAIR BAUM. NO: REP. EDMUNSON EXCUSED:

138 CHAIR BAUM: REP. MILLER to carry the bill. Adjourns the meeting.

Transcribed by:Reviewed by:

Darcie JacksonOffice Manager

EXHIBIT LOG:

A -D.I.F. Proposed Amendments to HB 3520 - Staff - 1 page B -D.O.J. Amendments to HB 3520 - Staff - 1 page C -County's Proposed Amendments to HB 3520 - Staff - 1 page D -Proposed Amendments to HB 2732; HB 2732-1 - Rep. Liz VanLeeuwen - 1 page E -Testimony in favor of HB 2732 - 1 page - Mark Siegel F -Signed Sheet of those in favor of HB 2732 - 2 pages - Mark Siegel G -Testimony in favor of HB 2732 - 2 pages - Lester C. Young H -Testimony in favor of HB 2732 - Dr. Dennis W. Mills - 1 page I -Testimony in favor of HB 2732 - Les Forney - 1 page J -Testimony in favor of HB 2732 - Stan Baker - 1 page K -HB 2010-2 Proposed Amendments - Jim Markee - 28 pages L -Copy of Oregon Rules of Civil Procedure - Submitted for the Record - 1 page