

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 CRIME AND CORRECTIONS

April 2, 1991Hearing Room 357 1:00 p.m.Tapes 66 - 70

MEMBERS PRESENT:Rep. Randy Miller, Chair Rep. Ray Baum Rep. Judy Bauman Rep. Tom Brian Rep. Rod Johnson Rep. Tom Mason Rep. Del Parks Rep. Ron Sunseri

VISITING MEMBER:Rep. Kelly Clark Rep. Bill Markham

STAFF PRESENT: Holly Robinson, Committee Counsel Kathy Neely, Committee Assistant MEASURES CONSIDERED: HB 2932 PH (Crime of Arson) HB 2577 PH (Regulate Firearms) HB 2486 PH (Regulate Firearms) HB 2443 WS (Law Enforcement)

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TAPE 66, SIDE A

003 REPRESENTATIVE MILLER, CHAIR: Calls the meeting to order at 1:15 p.m.

PUBLIC HEARING ON HB 2577 Witnesses: Rep. Vera Katz Rep. Kelly Clark Rep. Bill Markham Rep. Bill Dwyer Rep. Ron Cease Rick Bauman, Multnomah County Commissioner John Dilorenzo John Nichols, Oregon Shooting Association John Hosford, Citizens for Right to Bear Arms

010 REPRESENTATIVE VERA KATZ: Gives an overview of HB 2577 and HB 2486. \*Discusses legislative history regarding preemption. \*Concerned about City Ordinances that the Cities wanted to maintain. \*The single issue that brought preemption to the forefront was the Multnomah County Assault Weapon Ordinance which required that selective firearms be disassembled and locked in a gun case while being transported. That went beyond the intention.

074 REPRESENTATIVE KELLY CLARK, DISTRICT 27: HB 2577 revisits the question of legislative preemption of gun laws. \*Discusses legislative history regarding preemption. HB 3470 from last session. - The essential compromise with former HB 3470 was "Section 38". It allows cities and counties to regulate possession of firearms only in public places. - Purpose of Section 38 was to make sure cities and counties would not undermine the essential public policy in HB 3470. - Discusses "Friends of the Court" brief filed in the Circuit Court of Multnomah County on behalf of Senators Brenneman, and Brockman and Representatives Baum, Brian, Calouri, Clark, Mannix, Mason, and Minnis. (EXHIBIT A). Expresses to Court concern that the County ordinance went beyond Section 38 of HB 3470. \*Need to come up with a stronger preemption bill. \*HB

2577 gives legislative assembly exclusive authority to regulate questions of firearms. \*It is an attempt to narrow authority cities and counties have and in response to abuses of the previous bill.

170 REPRESENTATIVE BILL MARKHAM, DISTRICT 46: Testimony includes HB 2577 and

HB 2486. Discusses the history of preemption law. \*The legislature should set state wide standards to allow people to move about the state with firearms and know that they are not in violation of different local laws.

215 REPRESENTATIVE BILL DWYER, SPRINGFIELD: Discusses Section 38 of past bill HB 347 0 with regards to preemption. \*Section 1 of HB 2486 states "the legislative assembly finds that the regulation of firearms is a matter of statewide concern and that all regulations concerning firearms should be enacted on a statewide basis." Should be included in a bill.

270 REPRESENTATIVE LARRY SOWA, DISTRICT 26: Last session tried to make sure state preemption would hold up, which it did not. Prefers HB 2486 over HB 2577. \*Section 2, subsection 1 of HB 2577 conflicts with the Dept. of Fish and Wildlife.

294 REP. CLARK: Quotes from defendant's counsel in Oregon State Shooting Association v. Multnomah County in response to the Friend of the Court Brief: \*Discusses the policy of HB 2577 and 2486. \*There is a good gun law in the state and the local ordinances conflict with it. It is not good policy for the state. \*The legislature could craft a provision to help the urban areas.

329 CHAIR MILLER: Should addition bills on this subject be approached with caution.

REP. CLARK: Would support other legislation that is better if convinced it was better.

350 JOHN DILORENZO, OSSA: Represents the Oregon State Shooting Association in the OSSA v. Mult. County case. Gives a brief overview of the status of the case. \*Updates on issue of preemption. \*Discusses Section 38 of HB 3470. \*Supports HB 2577 for the following reasons. 1. There is a need for uniformity in this area. 2. State laws and local ordinances relating to this are subject to distinct constitutional parameters. 3. Believes in the legislative process. \*Reviews the Friend of the Court Brief (EXHIBIT A).

TAPE 67, SIDE A

094 CHAIR MILLER: Can witness distinguish HB 2577 and HB 2486 and the Senate bill?

DELORENZO: Have not reviewed the Senate Bill.

118 REP. MARKHAM: Could a person with a deputy commission and concealed weapon permit, carry a gun under seat or in glove compartment of car throughout the state and be lawful?

DELORENZO: Don't know.

131 REP. MASON: If on duty, yes, if not on duty, no. The permit would take care of all situations.

151 JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION: (EXHIBIT B) Support preemption. Discusses SB 1074 which was hand engrossed. (EXHIBIT B) \*Discusses differences with Senate Bill and House Bill. - Section 3 of SB 1074 recognized the Oregon Supreme Court decision regarding ordinances prohibiting loaded carry without a permit are constitutional. - Subsection C suggests saying concealed handgun "in the state".

192 JOHN HOSFORD, EXECUTIVE DIRECTOR OF CITIZENS COMMITTEE FOR RIGHT TO KEEP AND BEAR ARMS: Supports HB 2577. \*Recalls Section 38 of HB 3470 last session. \*Suggests adding language that gives the Attorney General authority and mandates the duty to bring action against any public official that want to subvert the legislative process.

272 NICHOLS: Discusses the compromise reached last session which was aimed at the ability of cities and counties to protect certain basic ordinances.

290 REP. JOHNSON: Understands that National Rifle Association will not be present.

NICHOLS: Comments on written testimony submitted by the NRA from John Lenzi in support of HB 2577 with proposed amendments (EXHIBIT C).

313 REP. JOHNSON: The state shooting association is in agreement with NRA's proposals.

NICHOLS: Yes.

324 REPRESENTATIVE RON CEASE, NORTHEAST PORTLAND: Supported previous HB 3470. Comments on a recent killing in NE regarding a small boy and a stray bullet. \*Discusses law enforcement in the state being done on a local level. \*Does not understand why the state would want to take this authority away from the local authorities because not all parts of the state are alike. \*HB 2577 would be a terrible blow for local authorities to deal with gangs or local government problem. Does not support.

018 REP. CLARK: Expresses confusion about Rep. Cease's comments on preemption generally.

TAPE 66, SIDE B

040 REP. CEASE: Distinguishes between authority a government has to preempt something regarding state to local and federal to state.

075 REP. CLARK: Would the view be the same if a city were to enact an ordinance that makes their gun laws easier than what the state mandates?

REP. CEASE: Questions what the law is and does what they are asking make any sense? Have to make a distinction between what the law is and what makes sense in terms of the local area.

090 REP. SUNSERI: Expresses concern on reason for preemption. Believes the 10th Amendment provides the principle of Federalism. There is no provision that allows local municipalities to be separated from state government. \*If allow individual counties or cities to pass laws undermining the legislature laws, then there is no use for the state legislature.

REP. CEASE: Cannot say what it means overall. The nature of

intergovernmental relations is so mixed, it has so many layers and levels it is difficult to figure out what it is in individual cases.  
\*Argument is that Oregon has had a long term tradition of local government which has been modified over the years.

148 REP. BRIAN: This body has a history of preempting and mandating to local government in a number of areas. Is this matter important enough to stop that tradition.

160 REP. CEASE: Discusses mandates. \*Not questioning legal authority of the state to preempt but questioning the desirability to do it.

189 REP. BAUMAN: Comments on forfeiture with regard to preemption.  
\*Forfeiture enables local government to confiscate property that are used in criminal endeavors.

REP. CEASE: Believes a good part of the population does not make a distinction between state and local government because they seem intertwined. \*They have a right to demand that basic services such as law enforcement be provided in a meaningful way on a local level because the state cannot do it.

229 RICK BAUMAN, MULTNOMAH COUNTY BOARD OF COMMISSIONERS: Testifying in opposition to HB 2557 and HB 2486. \*Comments on importance of local ordinances with regard to firearms. \*Agrees with argument for uniformity in laws with regard to guns. \*Ultimate goal is a good federal ordinance. - Issue that must be dealt with by political leaders. - Discusses California as an example regarding substantial and impressive gun control laws. There is a 15 day waiting period and a ban on all assault weapons. \*This preemption would wipe out a number of ordinances that exist currently. \*Comments on the Committee member's districts with regards to this bill. \*SB 633 would give HB 2577 a standard. \*Comments on Constitutional aspect regarding right to bear arms and that it does not include assault type weapons.

393 REP. JOHNSON: Uniformity is a good thing to have around the state providing gun control?

BAUMAN: Should be uniform across the nation.

REP. JOHNSON: Then each city should not have their own laws?

BAUMAN: The way to get to uniformity is to have various jurisdictions respond to the need of their community, test limits of the Constitution and test the limits of the statutes.

420 CHAIR MILLER: What law sunsetted January 1?

BAUMAN: The portion that sunsetted was the background checks on long gun purchases that is now no longer in effect.

TAPE 67, SIDE B

013 REP. CLARK: Agrees there should be follow up to HB 3470. Is Multnomah County a member of the Association of Oregon Counties?

BAUMAN: Yes.

REP. CLARK: Stated that the Multnomah County ordinance was in with context of Section 38. How is the regulation of sales the result of

possession?

BAUMAN: Did not talk about general sales, but those in a building the county owns. The right to regulate commerce within a county building.

031 REP. CLARK: The county made a decision to "push state law on one point" dealing with assault weapons.

BAUMAN: That was pushing the state Constitution.

REP. CLARK: Not pushing the statute?

BAUMAN: No and the Attorney General has agreed on all aspects of that.

037 CHAIR MILLER: Questions whether Commissioner stated what Mr. Hosford suggested with respect to the Legislature?

BAUMAN: Don't remember. Discusses the meeting.

REP. CLARK: Asks if the Commissioner reviewed the legislative history behind Section 38 of HB 3470 from last session?

060 BAUMAN: Yes. Interesting point is the allegation that the bill passed only because of Section 38. Conversely the bill would not have passed if the protection of local government was not specific in the bill.

063 REP. CLARK: Discusses record of HB 3407 from last session regarding meaning of Section 38.

071 BAUMAN: The law as written controls and this was not clear cut.

077 REP. CLARK: Then the legislature did not do a very good job of writing down Section 38?

BAUMAN: Could be the case.

REP. CLARK: Doesn't that argue for a strengthened preemptive clause?

BAUMAN: No. This is a new "legislature".

089 CHAIR MILLER: Recesses the public hearing on HB 2577 and HB 2486. Will open hearing on HB 2932.

HB 2932 - PUBLIC HEARING Witnesses: John Foote, Oregon District Attorney's Association Thomas Hart, ODAA Richard Hein, Oregon State Police John Powell, Oregon Council Against Arson Paul Barrett, Portland Fire Bureau Charles Powers, IAAI Bob Keyser, Oregon Council of Police Association Remy Stroud, State Fire Marshall's Office

128 THOMAS HART, OREGON DISTRICT ATTORNEY'S ASSOCIATION: Testifies in favor of HB 2932. \*Offers amendment (EXHIBIT I) dealing with fire started in institutions throughout the state. Patterned after ORS 166.275. Fire is used as a weapon in an institution.

170 JOHN FOOTE, INSPECTOR GENERAL: Supports the ODAA amendment. \*Discusses fire in prisons. Need effective way to sanction those who start fires in prisons.

183 RICH HEIN, OREGON STATE POLICE: (EXHIBIT D) Supports HB 2932.

\*Positive necessary support to existing arson statute.

194 REP. BRIAN: Regarding line 12 of Subsection C, the aggravation of the offense pertinent to the injury. More definition would help. Why tying in injury with this?

HART: The State Fire Marshal addresses it in his written testimony (EXHIBIT E).

221 REP. BRIAN: Is there an amendment?

HART: The Fire Marshall proposes a couple of amendments.

RAMEY STROUD, CHIEF DEPUTY STATE FIRE MARSHAL: (EXHIBIT E) \*Fire Marshall collects injury statistics for firefighters. Injuries are 3 times higher for arson fires than other means. \*Reason is arson involves an excellerant or device that protects the fire before discovery.

REPRESENTATIVE NAITO: Supports HB 2932. \*Support comes out of experience with DA's office regarding local arson. \*Fire can be a dangerous situation. \*Discusses the rocket propellent fires.

292 REP. JOHNSON: On lines 12 through 14 adding first degree arson category of setting a fire which ultimately results in a firefighter's injury, is it unusual?

296 REP. NAITO: Understands circumstances surrounding the arson are taken into account.

REP. JOHNSON: If a person is injured as result of an arson fire, is there current enhancement of penalty?

308 HART: Yes under sentencing guidelines making it serious category of 10.

REP. JOHNSON: This is in effect under sentencing guidelines.

329 HART: Not to extend it is an arson in first degree.

REP. JOHNSON: Line 8, paragraph 1A have a class A felony if person burns property of another.

HART: Protected property defined under law. It is basically an occupied building.

STROUD: Oregon Fire Chief Association and Oregon Fire District Director's Association are in support.

358 JOHN POWELL, OREGON COUNCIL AGAINST ARSON: (EXHIBIT E) Comments on the proposed changes: \*Accurately assesses the risk to firefighters and police officer as being similar to the risk in the current arson 1 statute to public citizens. \*Practice of court to look at injuries being part of the job. \*Fires and explosions are very similar process and danger.

419 PAUL BARRETT, CHIEF INVESTIGATOR FOR PORTLAND FIRE BUREAU: (EXHIBIT G) Supports HB 2932 with the proposed amendments. \*Portland is the largest fire bureau in state. \*Discusses arson fires in the Portland Area and the damage caused. \*Arson is reported as a ART 1 Crime.

TAPE 68, SIDE A

042 CHARLES POWERS, LIEUTENANT, PORTLAND FIRE BUREAU: (EXHIBIT H) Supports HB 2932. Representing the International Association of Arson Investigators. \*HB 2932 enhances the penalty and clarifies the definition of arson and crimes against other properties by fire. \*The proposed changed to ORS 164.325 to recognize the danger caused by intentionally started fires. \*Creates the crime of aggravated criminal mischief in the first degree, a Class B felony.

103 REP. BRIAN: The only amendment is on line 13, serious injury. Are there any others.

POWERS: Four actual amendments.

127 BOB KEYSER, OREGON COUNCIL OF POLICE ASSOCIATIONS: Supports HB 2932. Arson should be elevated because fire is a deadly weapon.

HB 2932 - WORK SESSION

133 MOTION:REP. BRIAN: Moves to amend the bill on line 13 to add "serious".

CHAIR MILLER: Rep. Brian moves to add "serious" to line 13. Hearing no objection, so adopted.

139 MOTION:REP. BRIAN: Moves creating a new subsection 2 on line 15 to insert language in EXHIBIT I: "any person committee to any institution who, while under the jurisdiction of any institution or while being conveyed to or from any institution, commits the crime of Arson in the First Degree if, by starting a fire or causing an explosion any property whether the property of the person or the property of another person."

152 REP. PARKS: Why limiting to people who are being conveyed? Why not a person who is just there?

156 REP. BRIAN: "Any person committed to an institution" would imply including those that are there as well as being transported.

REP. PARKS: If someone comes to the capitol on the weekend and starts a fire?

REP. BRIAN: This amendment discusses the hazard when an arson fire is in an institution because of security.

166 REP. PARKS: Disagrees on what the language says. It says the person is being conveyed.

STROUD: Discusses an Oregon Supreme Court case State v. Whitley regarding the property must have value for the Arson statute to be activated. \*Current problem is inmates starting a fire in their cell and creating a smoke hazard and a evacuation riot situation which does not constitute the crime of arson because the property has no value. The amendment address that.

193 REP. BAUMAN: The intent is for correction institutions because there are other institutions, such as mental institution, which should be included. Wants it to be clarified.

HART: Intent is for more than just correctional institution in order to

encompass, for example, the Oregon State Hospital. \*Mental, juvenile facility or a correction facility at any state or local level.

217 HOLLY ROBINSON: The words "committed to any institution" can be committed to corrections, local facility, mental facility. The intent is to cover those confined.

228 CHAIR MILLER: Rep. Brian has moved the amendment stated above. (EXHIBIT I). Hearing no objections to the amendments, they are adopted.

MOTION:REP. BRIAN: Moves HB 2932 as amended to the full committee with a do pass recommendation.

CHAIR MILLER: Rep. Brian moves HB 2932 as amended to the full committee with a do pass recommendation.

VOTE: 5-0 Motion passes AYE: Bauman, Brian, Mason, Sunseri, Miller NO: 0 EXCUSED: Baum, Johnson, Parks

262 CHAIR MILLER: Closes work session. Reopens hearing on HB s 2577 and 248 6.

HB 2577 AND HB 2486 - PUBLIC HEARING Witnesses:Danna Schaeffer, Oregonians Against Gun Violence. Harold Bangs, Citizen Steven Donnell, Oreogn ProGun Civil Rights Lobby Bob Beel, Albany Rifle and Pistol Club Bob Tardiff, Oreogn Association of Police Chiefs John Sweeney, Oreogn State Shooting Assoc. Douglas Berry, Citizen Flory Martin, Citizen Bill Montgomery, Citizen Danielle Brady, Citizen Valerie SalsB ury, League of Oregon Cities Chuck Karl, Portland Police Bureau Paul Elsner, City of Portland Vic Mann, City of Eugene Police Steve Bach, Citizen Paul Snider, Oregon Counties Bob Kantine, Association of Oregon Counties

291 DANNA SCHAEFFER, CO-CHAIR, OREGONIANS AGAINST GUN VIOLENCE: (EXHIBIT J) Opposes HB 2577 and HB 2486 which would eliminate and severely limit local authority to regulate firearms. \*Discusses Oregonians Against Gun Violence. \*Does not understand why the state would wipe out local ordinances without replacing them with something else. \*Uniformity would be good but not until state law covers what local laws do. \*Local government must continue to have the authority to respond to guns which are a continuing problem especially in the inner cities.

TAPE 69, SIDE A

003 REP. CLARK: Should local government have the authority to do away with part or all of a law passed from the state legislature?

SCHAEFFER: No. Should work the way that federal and state laws work together.

021 REP. CLARK: Who's perspective is the correct one over which law is stronger? There is a constitutional right to gun ownership. \*State law can be more protective and stronger than federal law. Usually meaning constitutional liberties. A state wide standard will create a balance.

025 SCHAEFFER: The level of violence in the cities is so high that some sacrifice of convenience to lawful gun owners will have to be made.

036 REP. SUNSERI: Expresses concern over the fact guns used in violence are not those under licensing presently. Local gun ordinances governing ownership will not affect those.



040 SCHAEFFER: It is hard.

041 REP. SUNSERI: How would those be protected?

042 SCHAEFFER: Gives law enforcement the teeth needed to pursue these people.

043 REP. SUNSERI: Comments on statements made for uniformity. Under what standard of uniformity? In favor of uniformity if all restrictions of right to bear arms was not infringed at all, no waiting periods?

054 SCHAEFFER: Not in support of that type of uniformity.

055 REP. SUNSERI: But in favor of it based on personal standard?

056 SCHAEFFER; That standard being public safety.

064 HAROLD BANGS, CITIZEN: Testifies in favor of HB 2486. \*How would a citizen know, if they were possession a gun, if they were in the law as they travel through the state through different counties and cities. Might be lawful in one place but a few miles down the road, would be illegal. \*With statewide rules, everyone knows what is legal.

089 STEVEN DONNELL, PRESIDENT OREGON PRO GUN CIVIL RIGHTS LOBBY: (EXHIBITS K and L) Opposed to HB 2577. \*Discusses HB 3470 regarding Multnomah County ordinance enacted. \*Recommend that HB 2577 be tabled in order to provide consideration and enactment of another laws that may more accurately reflect concerns about firearms. \*Recommends amendments to create a new Section 3 to state the federal government's current control over sale, possession, ownership, transfer of firearms shall be used in Oregon. \*Discusses Attorney General Opinion regarding Multnomah County. -The ordinance does protect the rights of people. \*Problem is people using firearms illegally. Need to get at the root cause of this problem.

194 REP. CLARK: HB 2577 does not go far enough?

196 DONNELL: HB 2577 has a major flaw because it could stop hunting and target shooting on public lands.

211 BOB BELL, ALBANY RIFLE AND PISTOL CLUB: Discusses the fact that Portland has interpreted one way when it was to be a state wide law. \*Assault weapons are not under Oregon definition.

236 REP. MASON: The problem with Multnomah County is more complex than not enforcing the law but the fact that there is a shortage of funds and a lot of gangs and drugs.

250 BELL: Should have a uniform state law dealing with firearms.

280 BOB TARDIFF, OREGON ASSOCIATION OF CHIEFS OF POLICE, POLICE CHIEF FOR CITY OF STATON: The Association's concern is that local jurisdiction not be prohibited from responding to local concerns regarding guns. \*HB 2577 is so encompassing that cities and counties should be able to control second-hand dealers and the like. \*HB 3470 from 1989, local jurisdictions be able to retain their control possession of firearms in schools, parks, etc. Small communities may want to control hunters.

315 REP. JOHNSON: For passage of either HB 2577 or 2486? Should have a

uniform law so citizens know if they are legal throughout the state.

TARDIFF: Some cases might need a state law but there are many local ordinances that would not be necessary state wide.

353 JOHN SWEENEY, OREGON STATE SHOOTINGS ASSOCIATION: In favor of HB 2577. It would bring uniformity to the state and eliminate the patchwork of local laws that often conflict with each other and state law.

375 DOUGLAS BERRY, CITIZEN: Discusses experience with guns and being active in shooting sports. \*Discusses Multnomah County and Portland ordinances.

TAPE 68, SIDE B

086 FLORY MARTIN, CITIZEN: Supports HB 2577 with provisions suggested by John Nichols. \*Target shooter as a hobby. \*Concerned over non-uniformity of gun control and patchwork laws all over the state. \*Discusses Section 38 of HB 3470 regarding Counties making separate ordinances.

117 BILL MONTGOMERY, CITIZEN: Supports the bills. \*Shoots competitively. \*Does not believe smaller towns will be upset with not have local authority over gun control.

163 DANIELLE BRADY, CITIZEN: Is in favor of HB 2486 rather than HB 2577 because of the provision regarding cities and counties regulating discharge of a gun.

199 VALERIE SALISBURY, LEAGUE OF OREGON CITIES: Not all cities in state have the same kinds of concern and problems. \*Discusses the proposed legislation with regard to a small city and the impact on that city. \*Rather than a blanket preemption, limit local authority where there is a specific problem and leave the flexibility to deal with local problems on a local basis intact.

239 CHUCK KARL, PORTLAND POLICE BUREAU: Opposes HB 2577. \*The issues are: neighborhood safety and preemption. \*Portland has an average, documented drive by shootings of 2 per week. Over 2,500 documented gang incidents in the city. \*Would not like to have the city's ability to enact ordinances regarding firearms restricted.

298 REP. BAUM: Asks about ideas regarding firearm control and Portland's gang problem?

KARL: A major problem is criminals and predators getting possession of weapons. They are obtained from legitimate outfits but more often from theft, from vehicles or houses, and then passed around amongst each other. \*Need to keep firearms out of the hands of criminals by responsible regulations such as registration or locking devices on the firearm if it is stolen.

334 PAUL ELSNER, CITY OF PORTLAND, ATTORNEYS OFFICE: The city enacted regulatory ordinances subsequent to the enactment of gun control legislation is incorrect. \*Only ordinance enacted was a fee recovery for a state mandate to do background check which was \$15. Over 3,500 background checks were done.

400 REP. PARKS: Observes a lot of things in common between smaller cities and a larger one like Portland.

TAPE 69, SIDE B

009 VIC MANN, POLICE LIEUTENANT WITH CITY OF EUGENE: (EXHIBIT M) \*City of Eugene regulates business of armed secured guards. \*This bill would eliminate the ability to regulate those people. \*Public facilities law does not cover regulation in parks or school yards currently. \*HB 2577 includes civil ordinances.

054 REP. SUNSERI: How would the state legislature stop cities and counties from undermining the essence and intent of the laws passed?

ESLNERS: Should let the courts decide the issue.

078 REP. CLARK: Why did the legislature draft Section 38 at all?

MANN: Not involved in discussions of last session. The section exists because that bill did not include ordinances needed by cities and counties at that time.

REP. CLARK: Disagrees.

ELSNER: Only ordinance adopted since the gun regulations bill was passed last session in Multnomah County has been a nonregulatory fee recovery system not a regulatory ordinance.

108 REP. CLARK: Suppose a city passes an ordinance with total disregard to the legislation passed last session. Shouldn't the legislature need to respond to preempt that ordinance?

ELSNER: Believes local jurisdiction could not do that. They could not lower the standard the state has imposed. Discusses civil and criminal preemption.

137 REP. CLARK: The legislature did not think a local government would do what Multnomah County did with regard to gun control.

156 STEVE BACH, CITIZEN: Discusses the effects of various regulations would be throughout the state if in the form of Multnomah County Safe Streets Ordinance. \*Describes what the intent and form was. - Form: will have training specific to type of gun might own. Sheriff must develop the program. - Type of gun is undefined. - Discusses the amount of time and money lost to the purchaser of a firearm under the Multnomah County way. \*SB 633 is what Commissioner Bauman would like to see happen. The prohibition of civilian possession of full automatic firearms. \*The reason why a city or county would reduce the requirement of the state because they believe the state law was an infringement on constitutional guaranteed rights already. \*Discusses fee recovery situation which is like a poll tax. Fees will become a problem and will increase.

302 PAUL SNIDER, LEGAL COUNSEL FOR ASSOCIATION OF OREGON COUNTIES: Expresses concern regarding preemption and the gaps in that law. \*Problem is court security and concealed weapons

BOB KANTINE, ASSOCIATION OF OREGON COUNTIES: Responds to question regarding

a city or county pushing the legislation to the limit: 1) Let the judicial remedy take course. 2) Option for political remedy.

346 CHAIR MILLER: Sensed the court argument regarding Multnomah County

and preemption would be made on June 7, 1991.

KANTINE: Comments on court case and possible outcome.

397 REP. CLARK: Rep. Katz is continuing to put together a working group to follow up on HB 347 0. Would like to know what needs to be included in state gun law.

DONNELL: The standards need to be imposed will come on a case by case basis. \*Discusses Section 38 of previous bill regarding preemption.

CHAIR MILLER: Closes hearing on HB 2577.

TAPE 70, SIDE A HB 2577 - WORK SESSION

012 MOTION:REP. JOHNSON: Moves amending HB 2577 to encompass the amendments

presented by Rep. Baum (EXHIBIT N). Adds an emergency clause.

CHAIR MILLER: Rep. Johnson moves the Baum amendments (EXHIBIT N). Hearing no objection, so adopted.

MOTION:REP. PARKS: Moves HB 2577 as amended to the full committee with a do pass recommendation.

VOTE: 5-0 Motion passes. AYE: Baum, Johnson, Parks, Sunseri, Miller  
NO: 0 EXCUSED: Bauman, Brian, Mason

CHAIR MILLER: HB 2577 as amended is passed to the full committee. Rep. Clark will carry.

(Tape 70, Side A) HB 2443 - WORK SESSION Witness: Rep. Minnis John  
Alms, Postal Inspector Steve Donnell, Pro Gun Rights Lobby Jerry Cooper,  
Board of Police Flory Martin, Citizen

070 REPRESENTATIVE MINNIS: Discusses the amendments (EXHIBIT P) to HB 2443. \*Did away with the list of agencies qualifying under the statute and included a definition. \*Constrained the ability of a federal officer to make an arrest and makes it a felony or class A misdemeanor committed in officer's presence. \*Subsection B states that federal officer would retain authority over arrested person until they appear before magistrate or enforcement agency with jurisdiction assumes responsibility. \*Subsection 6 includes the immunity clause. \*Subsection 7 is the language regarding training.

114 JOHN ALMS, POSTAL INSPECTOR: Comments on experience with this bill.

117 STEVE DONNELL, OREGON PRO-GUN RIGHTS LOBBY: Suggested that original bill

would allow any federal licensed individual to enforce any law in Oregon.

131 JERRY COOPER, LEGAL SERVICES COORDINATOR FOR THE BOARD OF POLICE STANDARDS AND TRAINING: Federal officers will only be able to arrest for a class A misdemeanor or felony committed in their presence. \*Less authority than a private citizen has. \*When acting as a governmental official, have to have probable cause.

156 REP. JOHNSON: This statute says federal officer may make arrest in certain circumstances, wouldn't it still be reserved to that officer the same rights as a citizen?

COOPER: Interprets that as saying the federal officer will not have the police power that a city or county officer would have.

REP. JOHNSON: Need to make distinction between what kinds of offenses they can arrest people vs. what an Oregon officer can do.

COOPER: During that time would have the privilege and immunity of a police officer only on the felony and A misdemeanor.

FLORY MARTIN, CITIZEN: Comments on discussions with friend in the FBI.

192 REP. JOHNSON: Discusses amendment at the top of the page 2 line 3: (EXHIBIT P) an officer making arrest without unnecessary delay shall take the person to a magistrate or police officer. \*Should read: person making arrest under this section shall, without unnecessary delay, take the arrested person where he should be taken.

REP. MINNIS: Could adequately deal with the issue by requiring that the federal officer take arrested person to law enforcement agency having general jurisdiction.

REP. JOHNSON: Believes that is an ambiguity with the language.

222 MOTION:REP. SUNSERI: Moves to delete lines 11, 12, and 13 from page 1.

CHAIR MILLER: Suggests that work still needs to be done on this bill.

244 REP. MINNIS: Comments on Rep. Sunseri's motion which defeats entire bill and existing law.

251 REP. SUNSERI: Explains why the amendment is necessary. \*Original bill provided that federal agents had more authority than local officers. \*Only 8 states provide for this in a limited way. \*Eliminating this portion will allow the federal officers to assist and arrest but provide for a limitation.

288 COOPER: States that authorize federal agents to arrest, allow them to do it on their own.

308 MOTION:REP. SUNSERI: Withdraws motion and moves HB 2443 to the full committee as amended.

REP. JOHNSON: Lines 11, 12, and 13 are current law except for the word crime. This would shrink their authority. Second the motion.

CHAIR MILLER: Rep. Johnson moves HB 2443 as amended to the full committee with a do pass recommendation.

VOTE: 4-1 Motion fails. AYE: Baum, Johnson, Parks, Miller NO: Sunseri EXCUSED: Bauman, Brian, Mason

CHAIR MILLER: Did not receive enough votes to move to full committee. Closes work session on HB 2443. Requests permission to suspend the rules for reconsideration of vote on HB 244 3. Hearing no objection, the work session on HB 2443 is reopened. Serves notice of possible

reconsideration. Adjourns at 5:11 p.m.

Submitted by:      Reviewed by:

Kathy Neely, Assistant      David Harrell, Office Manager

EXHIBIT LOG:

A            -            Material on HB 2577 - Rep. Clark - 12 pages  
B            -            Amendments to HB 2577 - John Nichols - 1 page  
C            -            Testimony on HB 2577 - National Rifle Association - 6 pages  
D            -            Testimony on HB 2932 - Richard Hein - 6 pages  
E            -            Testimony on HB 2932 - Ramey Stroud - 4 pages  
F            -            Testimony on HB 2932 - John Powell - 1 page  
G            -            Testimony on HB 2932 - Dave Barrett - 2 pages  
H            -            Testimony on HB 2932 - Charles Powers - 4 pages  
I            -            Amendments to HB 2932 - 3 pages J            -            Testimony on HB  
2577/2486 - Danna Schaeffer - 1 page K            -            Testimony on HB 2486 -  
Tex Shivley - 1 page L            -            Testimony on HB 2577 - Steve Donnell - 2  
pages M            -            Testimony on HB 2577 - Vic Mann - 2 pages  
N            -            Amendments to HB 2577 - Rep. Baum - 1 page O            -            Testimony  
on HB 2577 - George Roe - 1 page P            -            Amendments to HB 2443 - Rep.  
Minnis - 2 pages