

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

May 22, 1991 Hearing Room 357 1:00 p.m. Tapes 111 - 112

MEMBERS PRESENT: Rep. Randy Miller, Chair Rep. Ray Baum Rep. Judy Bauman Rep. Tom Brian Rep. Tom Mason

MEMBERS EXCUSED: Rep. Rod Johnson Rep. Del Parks Rep. Ron Sunseri

VISITING MEMBERS: Rep. Larry Sowa

STAFF PRESENT: Greg Chaimov, Committee Counsel Kathy Neely, Committee Assistant MEASURES CONSIDERED: HB 2618 PH (Criminal Procedure) SB 380 PH (Alternative Jurors) HB 3098 WS (Boating Offenses)

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TAPE 111, SIDE A

003 REPRESENTATIVE MILLER, CHAIR: Calls the meeting to order at 1:25 p.m.

HB 2618 - PUBLIC HEARING Witnesses: Rep. Larry Sowa Bob Lund, Oregon Hunter's Association & Oregon State Police Dan Brosuan, Oregon State Police Linda Borine, Fish & Wildlife Commission

010 GREG CHAIMOV: Gives background for HB 2618. \*Creates program by which courts can order a defendant to repay rewards paid for information leading the apprehension of defendants. Current law provides court with ability to convict a convicted defendant to repay up to \$1,000 in rewards.

018 REPRESENTATIVE LARRY SOWA, BOARD MEMBER OF THE OREGON HUNTER'S ASSOCIATION: Works with Bob Lund who runs the TIP program--a toll-free line in the state police office that allows people to report hunting/fishing violations and oftentimes other violations are reported. \*Want to discourage anti-social/anti-wildlife issues by offering rewards for people who use hot-line. \*Bill makes sure that everyone's on solid footing with this program--so that there can be no challenges as to the funding of it.

040 BOB LUND, OREGON HUNTERS ASSOCIATION AND OREGON STATE POLICE: (EXHIBIT A) Asking for the passage of the bill in order to get the funding.

077 CHAIR MILLER: In drafting, did anyone in Legislative Counsel indicate to you that such a statute already exists? The language in ORS 131.897 tracks with this proposal word for word except for the \$1,000. What we would normally see is ORS 131.897 reprinted with brackets around the \$1,000. Do you care about the \$1,000? Is it important to be able to exceed the current authority and allow courts that someone may be reimbursed in amounts exceeding \$1,000?

095 REP. SOWA: We didn't know about the other. In a recent case involving many citations, reward fund could have exceeded the \$1,000. This specified amount could put a limit on these cases.

103 CHAIR MILLER: The difference centers around the \$1,000 figure. If you think that is inadequate, then we should probably focus our discussion on that.

113 REP. BAUM: When you contacted judges, did you point out the ORS citation?

115 LUND: No--wasn't aware of it.

116 REP. BAUM & LUND discuss Judge Valentine's handling of these cases. He gave convicted parties a choice of forfeiting their rifle or paying the \$250--they took the latter.

126 REP. BAUM & LUND further discuss possibilities for re-wording. BAUM is concerned that statute was already on the books and nobody knew about it. LUND replied that a judge in Medford has expressed the same concern. BAUM noted that they apparently didn't know about the statute and asked LUND for a limit amount. LUND suggested \$2,000. BAUM asked about the wording "not exceeding \$2,000." LUND agreed to that and pointed out that a judge might be more willing to give this back to a private organization rather than a state agency.

154 LINDA BORINE, VICE CHAIR, FISH & WILDLIFE COMMISSION: We would hate to see it as low as \$2,000 because if you have multiple violations within one case, \$2,000 wouldn't cover it.

161 REP. BAUM: How much has been paid out on rewards to catch a person? Are there cases where we've been deprived of money because we didn't have a \$2,000 limit?

173 BORINE: Deferred to LUND.

174 LUND: Highest reward paid has been \$1,000. In three years' time we've paid out a little under \$6,000 on the cases; none of them have approached \$2,000.

182 REP. BAUM: If we change figure to \$2,000, the defendant can be required to reimburse the organization to up to \$2,000.

192 REP. SOWA: \$2,000 would be an adequate amount.

200 LUND: Would this limit a person in the case of a reward for a kidnapping or an armed robbery?

206 CHAIR MILLER: Yes. You could put \$100,000 cap on cases outside of the game area.

234 DAN BROSUAN, ASSISTANT COMMANDER, FISH & WILDLIFE DIVISION, OREGON STATE POLICE: Department supports the bill. \*Portland Police Dept. offers \$1,000 reward routinely on their crime information system. We can live with \$2,000.

247 GREG CHAIMOV: Confirms that the \$1,000 they offer is the limit that public bodies can offer.

253 CHAIR MILLER: Closes hearing.

SB 380 - PUBLIC HEARING Witnesses: Judge Donald C. Ashmanskas

264 GREG CHAIMOV: (AMENDMENTS - EXHIBIT B) (ORIGINAL SENATE BILL - EXHIBIT C) Reviews changes proposed. \*A-3 amendments propose to put back in the language allowing alternates to substitute after the guilt and before the sentence phase in a death penalty phase. It's the same language the committee adopted in HB 2393 which is passed onto the Senate and will be heard there next week.

297 JUDGE DONALD C. ASHMANSKAS, WASHINGTON COUNTY CIRCUIT COURT JUDGE: Supports SB 380. Judge West is also in favor of the bill. State Court Administrator's Office is also in favor. \*Part of a 2-bill package along with SB 381. \*Don't deal with death penalty because that was dealt with in HB 2393. \*Supports amendments to allow an alternate juror in the death penalty case to be used to replace someone after the guilt phase but before the penalty phase began. \*Addresses the fiscal impact statement. On prior fiscal analysis--sequestering alternate jurors (4 alternate jurors per trial per day at \$45/day during deliberations (\$9,000). In Washington County, in 151/2 years and between 11 judges, we've only had 2 jurors sequestered in any trial. Also, with jury re-instruction--I don't think it's required, which would be a \$6,000 savings. \*With 99 circuit trials, an alternate was used in 25 of them--18 criminal and 7 civil cases. Of the 19 trials (ASHMANSKAS IS REFERRING TO INFORMATION ON A CHALKBOARD BEFORE COMMITTEE), there was one alternate--13 in criminal, 6 in civil. In only 6 of the trials--5 criminal, 1 civil--were two alternates used. Data suggests that in 3-year period, we're only considering, at a minimum, 5 trials in which more than 2 alternates would be used. \*Asking for emergency clause because some trials take a long time, with witnesses from out of the country. If there's a mistrial due to lack of alternates, it could create many problems. \*Cost cannot always be the only factor. May not be able to recall the people/victims due to fear.

TAPE 112, SIDE A

007 CHAIR MILLER: Closes hearing on SB 380.

SB 380 - WORK SESSION

008 REP. MASON: Regarding whether to re-insert provisions: My instinct is to do that. \*Agrees with Judge Ashmanskas--if save one re-trial, we've covered the cost.

020 GREG CHAIMOV: Briefly discusses the amendments, EXHIBIT B.

025 MOTION, REP. MASON: Moves the SB 380-A3 amendments.

027 No objection. Amendments adopted.

028 MOTION, REP. MASON: Moves SB 380 to full committee, do-pass as

amended.

030 BAUMAN: Wants to know if bill is going to Ways & Means.

031 GREG CHAIMOV: Although fiscal impact statement is \$150,000, it doesn't appear to calculate in the savings.

034 CHAIR MILLER: Suggests forwarding to full committee and get an understanding there if this has to go to Ways and Means.

037 REP. MASON: Re-emphasizes Judge Ashmanskas' point about savings on re-trial.

040 CHAIR MILLER: Could probably capture the savings earlier than with some other bills. In the long run, the state would come out ahead.

050 VOTE: Motion

AYE: REP. BAUM, REP. BAUMAN, REP. BRIAN, REP. MASON, CHAIR MILLER NO:  
EXCUSED: REP. JOHNSON, REP. PARKS, REP. SUNSERI

058 CHAIR MILLER: MASON to carry bill. Closes SB 380 work session. Opens work session on HB 3098.

HB 3098 - WORK SESSION

070 PAUL DONHEFFNER, DIRECTOR OF THE MARINE BOARD: (EXHIBIT D) and (EXHIBIT E). Discusses the hand-engrossed version of page 4 of the bill. \*Represents a workable compromise for the previous objections on the bill.

088 REP. BAUM: We need to get this bill moved today--need MASON's approval to do so.

102 REP. MASON: "I would certainly be willing to give the proverbial courtesy vote."

104 MOTION, REP. BRIAN: Moves the HB 3098-1 amendments.

CHAIR MILLER: Rep. Brian moves the amendments to the bill. \*Hearing no objection, so adopted.

111 MOTION, REP. BRIAN: Moves HB 3098 as amended to the full committee with a do-pass recommendation.

116 VOTE: Motion

AYE: REP. BAUM, REP. BAUMAN, REP. BRIAN, REP. MASON, CHAIR MILLER NO:  
EXCUSED: REP. JOHNSON, REP. PARKS, REP. SUNSERI

120 CHAIR MILLER: Closes the HB 3098 work session with Rep. Mason to carry the bill. Opens work session on HB 2618.

HB 2618 - WORK SESSION

128 CHAIR MILLER: Wants to brief REP. BRIAN on earlier discussion.

134 GREG CHAIMOV: Restates that ORS 131.897 gives the court the authority to order a convicted defendant to reimburse an organization

for paying a reward for information leading to the apprehension of that defendant, up to but not exceeding \$1,000, and the proposal increases amount from \$1,000 to \$2,000.

147 REP. BRIAN: Is that done by an amendment?

148 CHAIR MILLER: There is a bill that can be amended or we can amend the statute.

150 REP. BRIAN: Would be easiest to amend the statute.

153 CHAIR MILLER: Changing the \$1,000 to \$2,000.

163 MOTION, REP. BAUMAN: Moves the insertion of the amendment changing the limit to \$2,000.

166 No objection. Amendment adopted

168 MOTION, REP. BAUMAN: Moves HB 2618 as amended to the full committee with a do- pass recommendation.

178 VOTE: Motion

AYE: REP. BAUM, REP. BAUMAN, REP. BRIAN, REP. MASON, CHAIR MILLER NO:  
EXCUSED: REP. JOHNSON, REP. PARKS, REP. SUNSERI

182 CHAIR MILLER: Closes work session for HB 2618. Adjourns at 2:10 p.m.

Transcribed by: Reviewed by:

Darcie Jackson Office Manager

EXHIBIT LOG:

A -Testimony on HB 2618 - Bob Lund - 2 pages B -Proposed Amendments to A-Engrossed Senate Bill 380 - Staff - 5 pages C -SB 380 & A-Engrossed SB 380 - Staff - 2 pages D - Proposed Amendments to HB 3098 - Donheffner - 1 page E -Hand-Engrossed p. 4 of HB 3098 - Donheffner - 1 page