

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

June 7, 1991 Hearing Room 357 1:00 p.m. Tapes 62 - 63

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

MEMBER EXCUSED: Rep. Tom Brian Rep. Del Parks

STAFF PRESENT: Greg Chaimov, Committee Counsel Holly Robinson, Committee Counsel Jim Dole, Committee Counsel Kathy Neely, Committee Assistant

MEASURES CONSIDERED: HB 2584 WS (Use of Roadblocks) SB 722 WS (Improvements to Real Property) HB 2010 WS (Small Claims) HB 2732 WS (Tort Liability) HB 3520 WS (Tort Claims Action) HB 3283 WS (Political Payments) SB 32 WS (Handgun/Firearms Distribution) SB 194 WS (Fleeing Criminals Punishment) HB 3508 WS (Police Officers' Interrogation Rights) HB 2451 WS (Convicted Defendant Sentencing)

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TAPE 62, SIDE A

001 CHAIR RANDY MILLER: Opens House Committee on Judiciary at 1:40 p.m. Opens works session on HB 3508.

HB 3508 - WORK SESSION

012 MOTION, REP. SUNSERI: Moves HB 3508 to the floor, do pass.

014 VOTE: Motion

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

018 CHAIR MILLER: Closes work session on HB 3508. Opens work session on HB 2010.

HB 2010 - WORK SESSION

025 JIM DOLE: Summarizes HB 2010. *Would allow service before filing civil claims and small claims in district courts. *-2 Amendments (EXHIBIT B) would provide that defendant has 14 days to respond to the claim within 30 days after service or after the defendant's response.

043 MOTION, REP. BAUM: Moves HB 2010 to the floor, do pass.

046 VOTE: Motion

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

050 CHAIR MILLER: REP. BELL to carry the bill. Closes work session on HB 201 0. Opens work session on HB 2732.

HB 2732 - WORK SESSION

056 JIM DOLE: Summarizes HB 2732. *Addresses liability of charitable organizations. *Same liability limitations would exist that exist for public bodies under the Oregon Tort Claims act to charitable organizations. *-2 Amendments (EXHIBIT C) impose liability limits only on non-economic damages and would not apply at all unless a charitable organization has insurance of the limits set within the bill.

065 MOTION, REP. BAUM: Moves HB 2732 to the floor, do pass.

067 REP. BAUMAN: Asks for further explanation.

070 REP. EDMUNSON: The damages limits apply to non-economic damages and only if there is an insurance policy which indemnifies losses.

084 WITHDRAWS MOTION, REP. BAUM

086 MOTION, REP. BAUM: Moves -2 Amendments to HB 2732.

088 No objection. Motion passes.

089 MOTION, REP. BAUM: Moves HB 2732 to the floor, do pass.

091 VOTE: Motion

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

094 CHAIR MILLER: REP. CLARK to carry bill. Closes work session on HB 2732 and opens work session on HB 3520.

HB 3520 - WORK SESSION

098 JIM DOLE: Summarizes HB 3520. *Makes several revisions relating to tort claims against public bodies. *-1 amendments (EXHIBIT D) will provide the claims under the Oregon Court Claims Act may be made only against the state and not against its employees. Adds language to define "discretionary duties." Makes it clear that statutes of limitations are included in those statutes that make claims under the Tort Claims Act. *Provides that public officials are not liable for damages arising from parole and related decisions, decisions of the

Psychiatric Security Review Board, actions of the Department of Insurance and Finance relating to insurance and securities laws and also actions relating to audits of state agencies.

111 MOTION, REP. SUNSERI: Moves the -1 amendments to HB 3520.

113 No objection. Motion passes.

114 MOTION, REP. SUNSERI: Moves HB 3520 as amended to the floor, do pass.

115 VOTE: Motion

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

120 CHAIR MILLER: REP. EDMUNSON to carry. Closes the work session on HB 352 0 and opens a work session on HB 2451.

HB 2451 - WORK SESSION

125 HOLLY ROBINSON: Reviews HB 2451. *Changes requirements and time lines for individuals who are held in mental health facilities if they are found unfit to proceed in a criminal case. *Does 3 things: (1) deletes requirements that criminal charges be dismissed; (2) clarifies that the burden of proof is preponderance of evidence; and (3) decreases the period of time to 3 years. *-1 amendments (EXHIBIT E) that require adoption.

137 REP. JOHNSON: Confirms that there was no opposition from policy agency.

143 MOTION, REP. MANNIX: Moves the -1 amendments to HB 2451.

146 No objection. Motion passes.

147 MOTION, REP. MANNIX: Moves HB 2451, as amended to the floor, do pass.

149 VOTE: Motion

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

153 CHAIR MILLER: REP. CLARK to carry. Closes work session on HB 2451 and opens work session on HB 3283.

HB 3283 - WORK SESSION

159 GREG CHAIMOV: Reviews HB 3283. *Requires corporations formed to conduct political activity to inform the Secretary of State of their shareholders expenditures and contributions. *Prohibits campaign contributions to and solicitations by state office holders after the polls close on election day until the end of the Legislative session. *-A3 amendments (EXHIBIT F) and -A5 amendments (to discourage carrying over cash from political campaigns by taxing them).

170 CHAIR MILLER: REP. EDMUNSON and I have reached compromise on this

bill. We are asking that we amend this in full committee if you all agree to this. *We will continue to leave the bill in the form that the subcommittee approved. We only improved it, in our judgement. *Additional amendments include a time cut-off after election day of 21 days as opposed to 8:00 p.m. that day.

200 MOTION, REP. EDMUNSON: Moves the -A3 amendments to HB 3283.

204 No objection. Motion passes.

206 MOTION, REP. EDMUNSON: Moves the conceptual amendments to change the 8:00 p.m. rule to 21 days.

210 No objection. Motion passes.

211 MOTION, REP. EDMUNSON: Moves HB 3283 as amended (Note: No intention to move -A5 amendments mentioned by counsel), to the floor, do pass.

222 VOTE: Motion

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

243 CHAIR MILLER: CHAIR MILLER to carry the bill. Closes work session on HB 328 3 and opens a work session on SB 32.

SB 32 - WORK SESSION

247 HOLLY ROBINSON: Reviews SB 32. *Merely transfers the responsibility for distribution of handgun and firearm registrations from the state printer office to the state police. *No amendments.

254 MOTION, REP. SUNSERI: Moves SB 32 to the floor, do pass.

257 VOTE: Motion

AYE: REP. BAUM, REP. BAUMAN, REP. CLARK, REP. EDMUNSON, REP. MANNIX, REP. MASON, REP. SUNSERI, CHAIR MILLER. NO: REP. JOHNSON. (Voted "Yes"--changed vote to "No"--See Tape #62, Line 402) EXCUSED: REP. BELL, REP. BRIAN, REP. PARKS.

265 CHAIR MILLER: REP. BAUMAN to carry the bill. Closes the work session on SB 32 and opens a work session on SB 194.

SB 194 - WORK SESSION

268 HOLLY ROBINSON: Reviews SB 194. *Committee dealt with this issue previously--passed HB 2841 which went to the full and was subsequently referred to the committee on Ways & Means. *-A2 amendments (EXHIBIT G)--create a Class A misdemeanor on an offense of eluding a police officer after exiting a vehicle as opposed to using a new offense which is distinguished from eluding an officer in the vehicle. *Committee deleted a 2-day minimum jail sentence for convictions of attempting to elude a police officer--attempt to enhance penalties rather than having it as a C felony. *Committee deleted the provision that the person must exit/leave on foot.

282 MOTION, REP. MASON: Moves -A2 amendments to SB 194.

286 No objection. Motion passes.

288 MOTION, REP. MASON: Moves SB 194 as amended, to the floor, do pass.

290 VOTE: Motion

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

296 CHAIR MILLER: REP. SUNSERI to carry the bill. Closes the work session on SB 194 and opens the work session on SB 722.

SB 722 - WORK SESSION

311 GREG CHAIMOV: Reviews SB 722. *-A5 amendments (EXHIBIT H) reduce the statute of limitations of suing architects and other building professionals from 10 years from "substantial completion" of construction to two years from when claim was discovered. *Adds in all provisions of HB 2721 which passed this committee and the House floor unanimously.

327 REP. MANNIX: We had one change in the committee. We changed from 10 years to 2 years, something that had been agreed upon in the Senate; it's a key element to passage in the Senate. Although HB 2721 was heard in the Senate, due to a relating clause which may end up being used for other purposes in the Senate, the bill which ends up over there may end up not having its current contents. *Would like to change the undoing of the deal that occurred and put it back to 10 years.

349 MOTION, REP. MANNIX: Moves to suspend the rules and change the 6 years back to 10 years.

355 No objection. Motion passes.

356 MOTION, REP. MANNIX: Moves amendment to change the ultimate time frame from 6 years back to 10 years and otherwise adopt the -A5 amendments.

366 No objection. Motion passes.

368 MOTION, REP. MANNIX: Moves SB 722 as amended, to the floor, do pass.

371 VOTE: Motion

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

378 CHAIR MILLER: REP. MANNIX to carry. Closes work session on SB 722.

380 REP. MANNIX: For the record, "There's two references to 6 years--the reference that I'm talking about is the one that was on Line 19 of the A-Engrossed SB 722. It was 10 years there and I want to return to that 10 years. I'm not trying to change the other 6 years."

402 VOTE CHANGE, REP. JOHNSON: Changes vote on SB 32 to "No." Vote does not affect outcome of SB 32.

408 CHAIR MILLER: Opens work session on HB 2584.

HB 2584 - WORK SESSION

420 GREG CHAIMOV: Reviews HB 2584. *Creates a pilot program that allows the Motor Vehicles Division to set up checkpoints to evaluate motorists' sobriety. *-A1 amendments (EXHIBIT I) need to be moved. *New fiscal impact statement.

TAPE 63, SIDE A

008 MOTION, REP. MANNIX: Moves -A1 amendments to HB 2584.

011 REP. MASON: On page 3, line 7--I think that should be DMV personnel, or people manning the roadblocks.

017 REP. MANNIX: Instead of "uniformed officers" it should be "persons staffing the checkpoint."

021 REP. MASON: And, as editorial discretion, put that in everywhere else it appears.

027 REP. EDMUNSON: I think this is a terrible piece of legislation--not because it has anything to do with the idea of checkpoints. It's a stupid idea, but I will vote it on through.

033 REP. JOHNSON: I would encourage REP. EDMUNSON to join the absent REP. PARKS and I think the still present REP. BAUMAN and me in choosing not to send it to the floor because I too think it's a bad idea; we don't want checkpoints set up where ordinary people who have done nothing wrong have to stop and face interrogation on a daily basis. *It only got out of subcommittee on a courtesy vote because REP. MASON was sick that day.

049 REP. MANNIX: REP. BRIAN is not here--he's in Ways & Means and REP. EDMUNSON has indicated that he will vote in favor because REP. BRIAN is in support of the bill and is the necessary 7th vote. REP. BELL would be the necessary potential 7th vote, could be an 8th vote. It's a matter of postponing consideration or just going ahead with it now. I appreciate REP. EDMUNSON's willingness; he is opposed to the bill and will speak against it on the floor.

059 REP. CLARK: Carried this bill last session. It was substantially tougher than it is now. I have re-thought that issue. I haven't changed my position--I will vote yes--however, I am going to listen to the debate on the floor. I will support it today.

067 REP. MASON: I'm going to vote for the bill because REP. MANNIX was kind enough to amend it down into where finally DMV is doing this. I can appreciate objections but the way the bill reads now, these are sobriety checkpoints run by the DMV; it's as far away from the criminal system as it can get. I am not uncomfortable with non-police officers stopping me.

083 REP. JOHNSON: Points out paragraph in the back of the bill that allows the DMV to contract out this road blocking job to any police agency they choose to do so, so the odds are, since police officers are more comfortable stopping people and talking to them, that this will in fact be a situation where it will be police officers stopping us on our

way home from work even though we've done nothing wrong.

091 REP. BAUM: He's referring to line 30 on page 15.

094 REP. JOHNSON: Yes. Section 17.

INFERRED MOTION, MANNIX: Moves HB 2584 as amended, to the floor, do pass.

096 VOTE: Motion

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

104 CHAIR MILLER: REP. MANNIX to carry. Closes work session on HB 2584. Adjourns the meeting.

Transcribed by: Reviewed by:

Darcie Jackson

Office Manager

EXHIBIT LOG:

A - Memo Against HB 3508 from Robert G. Skipper, Sheriff - Submitted for the Record - 1 page B -HB 2010-2 Amendments - Staff - 28 pages C -HB 2732-2 Amendments - Staff - 1 page D -HB 3520-1 Amendments - Staff - 2 pages E -HB 2451-1 Amendments - Staff - 3 pages F -HB 3283-A3 Amendments - Staff - 3 pages G -SB 194-A2 Amendments - Staff - 1 page H -SB 722-A5 Amendments - Staff - 3 pages I -HB 2584-1 Amendments - Staff - 16 pages