

249 Mr. Rolls indicated that workers' comp is the primary source.

255 Mr. Bales said PIP would only apply to non-state employees who are only passengers and is used as a last resort.

299 Mr. Caleb Heppner from the Childrens Services Divison testified in support of the bill by citing examples of transporting people who would not be covered by insurance unless this bill passes.

344 Mr. Carl Bainter from CSD in Polk County testified in support of the bill and voiced the anxiety of state employees driving without coverage except for their own personal insurance.

378 Mr. Bill Siebert from the State Police testified in support of the bill.

388 SENATOR TROW asked why this had taken so long. The response was that the Attorney General's Opinion just came out recently.

425 SENATOR KULONGOSKI inquired about the state employee using his or her own vehicle.

430 Mr. Bales responded that the only coverage would be the person's own insurance policy. If the policy is insufficient, then the state picks up the difference. Subrogation is also an issue.

468 SENATOR KULONGOSKI observed that an emergency clause is needed.

Tape 7 Side B

SENATE BILL 54- relating to ridesharing

033 Jack Solace, chief counsel for the Department of Transportation testified in support of SB 54. In order to encourage ridesharing in state vehicles this bill is needed to provide insurance on the vehicles. This is a companion bill to SB 132.

067 SENATOR KULONGOSKI inquired about the \$25,000 coverage limit. The suggestion was made that it should be tied into the PIP limits with the option of providing more.

SENATE BILL 7- relating to transportation

089 Clarence Gilmer from the Public Utilities Commissioner's Office explained the purpose of SB 7. The bill excludes the limits although the PUC would still have the authority by way of rule making power.

107 SENATOR WINGARD leaves the meeting at 9:10.

120 SENATOR KULONGOSKI asked Mr. Nunez to contact Bob Knight who represents the Oregon Trucking Industry.

132 SENATOR KULONGOSKI asked for the authority to introduce a committee bill at the request of George Starr. There was no opposition. The meeting was adjourned at 9:14.

SENATE COMMITTEE ON
INSURANCE, BANKING, RETIREMENT

February 26, 1981

8:00a.m.

Room C, State Capitol
Tape 21, Side A

Members Present: Senator Ted Kulongoski, chair
Senator Lenn Hannon
Senator John Kitizhaber
Senator Bill McCoy
Senator Ruth McFarland
Senator George Wingard

Members Excused: Senator Cliff Trow, vice-chair

Staff Present: Al Nunez, committee administrator
Debra Ehrman, committee assistant

Witnesses: SB 54

Robert Royer, Dept. of Transportation

SB 132

Frank Bales, Deputy Director of General Services

006 SENATOR KULONGOSKI called the meeting to order at 8:08 a.m.

SENATE BILL 203- relating to wage withholding

008 SENATOR KULONGOSKI reviewed the previous hearing on the bill. He directed the members' attention to the proposed amendment(Exhibit A).

028 SENATOR MCCOY moved the adoption of the amendment. It passed without objection.

030 SENATOR MCFARLAND moved the adoption of the bill as amended with a do pass recommendation. It passed without objection. SENATOR MCFARLAND will carry the bill on the floor.

SENATE BILL 54- relating to ridesharing

067 Bob Royer testified that amendments from Jack Solace had not been prepared as yet due to his illness. This will be re-scheduled.

SENATE BILL 132- relating to the liability fund

088 Frank Bales reviewed the status of the bill which is to be amended to include an emergency clause. SENATOR KULONGOSKI noted that there might be an additional technical requirement on the bill. This will be re-scheduled.

SENATE COMMITTEE ON
INSURANCE, BANKING, RETIREMENT

March 5, 1981

8:00 a.m.

State Capitol, Room C

Members Present: Senator Ted Kulongoski, chair
 Senator Lenn Hannon
 Senator John Kitzhaber
 Senator Bill McCoy
 Senator Ruth McFarland
 Senator Cliff Trow, vice-chair

Members Excused: Senator George Wingard

Staff Present: Al Nunez, committee administrator
 Debra Ehrman, committee assistant

Witnesses: SB 54
 Jack Sollis, Dept. of Transportation legal counsel

SB 88
 James Light, Oregon Bankers Assoc., Oregon State Bar

SB 404
 Dennis Koho, Senator Isham's legislative aide

SB 292
 Dr. Patrick Murphy
 Frank Howatt, Insurance Commissioner's Office
 Bernard Van Milldeback
 Morris (Mike) Punch

007 SENATOR KULONGOSKI called the meeting to order at 8:05 a.m.

SENATE BILL 54- relating to ridesharing

011 SENATOR KULONGOSKI reviewed the committee's concern with the bill and specifically with lines 14,15,16 and the 25,000 minimum coverage. That section was to be re-drafted to conform the coverage to the present PIP limits.

020 Jack Sollis testified on the proposed amendment. He explained that General Services could increase the limits by rule-making. (Exhibit A).

067 SENATOR MCFARLAND inquired as to the meaning of "including but not limited to". Mr. Sollis stated that the phrase was a catch-all referring to public use. SENATOR KULONGOSKI explained that the phrase was used in order to avoid a narrow Court interpretation.

098 SENATOR TROW asked what the PIP limits were. They are 5,000 medical and 9,000 lost wages. He was concerned that this was too low. SENATOR KULONGOSKI explained that the amendment was basically a move towards uniformity in the statutes. An individual can still sue for a recovery above the limits although SENATOR KULONGOSKI thought the Lafayette School District case restricted that liability to the statutory amount.

198 SENATOR HANNON moved the amendments' adoption. SENATOR TROW objected to the deletion of lines 14-16. SENATOR HANNON moved the passage of SB 54 to the floor as amended. SB 54 passed without objection. SENATOR KITZHABER will carry the bill on the floor.

SENATE BILL 88- relating to gifts to minors

235 Jim Light testified on SB 88 and the expansions that will occur-subject of gifts to minors to include real property, persons to act as custodians, permits gifts under wills and permits gifts to personal representatives and trustees, investments and successor appointments. He did offer an amendment from the Bankers Association (Exhibit B). He reviewed what the banks had done in the past with gifts to minors. As of now only an adult member of the minor's family may act as a custodian. The Oregon State Bar feels that changes would facilitate the role of custodian as an estate planning vehicle. Gifts would include any personal and/or real property.

361 SENATOR HANNON inquired about the affect on estate taxes. Mr. Light explained that it would matter who was the custodian.

390 SENATOR KULONGOSKI went through the bill by sections. Credit Unions are added as depositories in section 1 and the specific list of gifts is deleted to include all personal and/or real property. Personal representatives are added as custodians as well as trust companies and persons outside the family relationship. Who can make gifts is also broadened. Forms and procedural changes are also included. Custodians would also be compensated.

Tape 25, Side A

064 SENATOR TROW wondered why we were opening up this area since it had previously been restricted. Mr. Light indicated that the State Bar felt this would get around some of the complicated trust arrangements which are currently in effect. The custodian will still have a fiduciary relationship to the minor. The bill would seem to get around some of the legal protections involved with a conservator or guardian. Mr. Light felt this would be most used with smaller estates.

195 SENATOR KULONGOSKI requested Mr. Oleson and Mr. Nunez to meet in order to re-draft the amendment.

SENATE BILL 404- relating to sewage disposal services

223 Dennis Koho testified on the behalf of Senator Isham (Exhibit C). It was believed that the service was of the type that Roto-roter provides. SENATOR KULONGOSKI requested that someone from DEQ be at the next hearing on the bill.

SENATE BILL 292- relating to maxillofacial insurance coverage

268 Dr. Patrick Murphy testified on his bill and what happened in the last session. It passed in the Senate but died in the House. Dr. Murphy has closed his private practice. This bill allows insurance coverage for maxillofacial prosthetic services which are related to cancer and birth deformities. These services are presently denied by

Exhibit A-SB 54
Ins, bank, retire
3-5-81
1 page

PROPOSED AMENDMENTS SB 54

On page 1 of the printed Bill line 12 after "use" insert
"including but not limited to use authorized under ORS 276.598".

On the same page line 14 after the period delete the rest
of the line.

On the same page delete lines 15 and 16.

On the same page line 20 delete "(A)".

On the same page delete line 22.

2/27/81

Oregon Department of Transportation

SB 54 Relating to ridesharing

- 130 BOB ROYER, Assistant Director of the Department of Transportation, spoke in favor of the bill (Exhibit F).
- 185 DARRELL RALLS, Department of General Services, spoke on the insurance.
- 204 MR. RALLS then spoke on the bill (Exhibit G).
- 272 REPRESENTATIVE OTTO moved to table SB 122.
- 275 The motion carried, 5-0 (voting, AYE: Campbell, Harper, Magruder, Otto, Zajonc; EXCUSED: Kerans, Davis).
- 280 The committee soon discovered they had made an error and had tabled the incorrect bill.
- 293 REPRESENTATIVE ZAJONC moved SB 122 off the table..
- 300 The motion carried, 5-0 (voting, AYE: Harper, Magruder, Otto, Zajonc, Campbell; EXCUSED: Kerans, Davis).
- 324 MR. RALLS continued his testimony and explained the hand-engrossed version of the bill (Exhibit H). VICE CHAIRMAN CAMPBELL decided to hold the bill over for another meeting.

SB 122 Relating to certain fidelity bonds

- 383 DARRELL RALLS spoke to the bill (Exhibit I).
- 451 FRANK BALES, Deputy Director, Department of General Services, explained the difference between fidelity and surety bonds.

TAPE 85 - SIDE A

- 032 REPRESENTATIVE OTTO moved SB 122 to the floor with a "do pass" recommendation.
- 035 The motion carried, 5-0 (voting, AYE: Harper, Magruder, Otto, Zajonc, Campbell; EXCUSED: Kerans, Davis).
- 051 The meeting was adjourned at 4:15 p.m.

TAPE LOG

H-81-SG0-82 Side A
002-485
H-81-SG0-83 Side A
001-484
H-81-SG0-82 Side B
001-485
H-81-SG0-83 Side B
001-488
H-81-SG0-84 Side A
001-451
H-81-SG0-85 Side A
001-051

Respectfully submitted,

Carolyn Wing

Carolyn Wing, Assistant

EXHIBIT LOG

A - Amendments,
HB 2537-2
B - Amendments,
HB 2537-3
C - Amendments,
HB 2537-4

D - Hand-engrossed bill, HB 3037
E - Amendments, HB 3019
F - Testimony, SB 54, Bob Royer
G - Testimony, SB 54, Darrell Ralls
H - Hand-engrossed bill, SB 54
I - Testimony, SB 122, Darrell Ralls

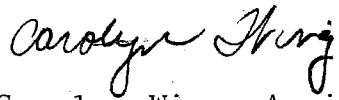
- 399 A long discussion followed on the need to send SB 184 to Ways and Means. CHAIRMAN DAVIS indicated that he would have a letter drafted to request that Ways and Means assign the bill to a subcommittee.
- 470 There being no objection to adopting the amendments, it was so ordered.
- 473 REPRESENTATIVE KERANS moved SB 184 as amended to Ways and Means with a "do pass as amended" recommendation.
- 496 The motion carried, 5-1 (AYE: Davis, Harper, Kerans, Magruder, Otto; NAY: Zajonc; EXCUSED: Campbell).

TAPE 146 - SIDE B

- SB 123 Relating to certain rents
- 036 DARRELL RALLS, Department of General Services, spoke in support of the bill, basing his remarks on prepared testimony (Exhibit F).
- 075 REPRESENTATIVE OTTO moved SB 123 to the floor with a recommendation for passage.
- 084 The motion carried, 5-0 (AYE: Davis, Harper, Magruder, Otto, Zajonc; EXCUSED: Campbell, Kerans). It will be placed on the consent calendar and Representative Harper will carry the bill.
- 089 CHAIRMAN DAVIS moved SB 54 from the table. There being no objection, it was so ordered.
- 100 DARRELL RALLS, Dept. of General Services, spoke in support of the bill, basing his remarks on prepared testimony (Exhibit G).
- 136 The committee then discussed the amendments to the bill (Exhibit H). They questioned Mr. Ralls on various aspects of the bill.
- 198 MS. PARK pointed out that the committee had received a letter from the Children's Services Division (Exhibit I). The committee further discussed the impact of the bill on insurance coverage.
- 256 REPRESENTATIVE OTTO moved SB 54 as amended to the floor with a "do pass" recommendation.
- 322 The motion carried, 6-0 (AYE: Davis, Harper, Kerans, Magruder, Otto, Zajonc; EXCUSED: Campbell). The bill will be printed engrossed and Representative Zajonc will carry it.
- 375 The meeting was adjourned at 3:34 p.m.

TAPE LOG - SIDE B
H-81-SG0-145 Side A
001-486
H-81-SG0-146 Side A
001-487
H-81-SG0-145 Side B
001-485
H-81-SG0-146 Side B
001-375

Respectfully submitted,


Carolyn Wing, Assistant

STATEMENT ON A-ENGROSSED SENATE BILL 54

by

Robert E. Royer, Assistant Director
Department of Transportation
April 30, 1981

to

HOUSE STATE AND FEDERAL AFFAIRS COMMITTEE

The Department of Transportation supports the A-Engrossed Senate Bill 54. Passage of this bill will make it possible for state employees to utilize state vehicles in ridesharing arrangements to commute to and from work. It will remove some of the insurance and legal impediments that currently exist.

Current law permits state agencies to offer a ridesharing program to its employees. The program would allow state employees to drive a state vehicle home providing they reimburse the state for the costs incurred. The vehicle could be used for no other personal use except the commute.

Unfortunately, current law does not address questions of tort claims, workers' compensation, personal injury protection and uninsured motorist coverage. An Attorney General's opinion was asked for (No. 7657; August 1, 1978) and received. That opinion did very little to clear up the legal questions. The Departments of General Services and Transportation along with the Attorney General's Office and many others worked closely with the Senate Interim Energy Conservation Task Force and Legislative Council to draft the current

2. Volunteers and clients of the Department of Human Resources who are passengers in a state vehicle driven by a state employee;
3. Prisoners or persons being transported in State Police or related law enforcement vehicles;
4. Employees of other public jurisdictions who may be passengers in a state vehicle (e.g., Federal, City or County employees conducting joint inspections with state employees); and
5. Any other instance in which a non-state employee is a passenger in a state vehicle which is driven by a state employee or agent.

The State's vehicle insurance program is presently deficient in this coverage and is inconsistent with ORS 486.570 which requires self insurers to provide the same level of coverage as is required for commercially purchased vehicle liability policies.

The amendments to Senate Bill 54 to incorporate SB 132 will correct these deficiencies by: 1) specifying that the Tort Liability Fund may be used to provide insurance or self insurance for personal injury protection benefits on all state-owned vehicles, including those provided for public use, and 2) by specifying that these benefits will be governed by ORS 743.800 to 743.835 on the same basis as private insurers. The amendments also include an emergency clause so that these deficiencies may be remedied as soon as possible.

The Department of General Services therefore recommends adoption of Senate Bill 54 with the proposed amendments incorporating SB 132.

DEPARTMENT OF GENERAL SERVICES

Testimony in Support of Senate Bill 54
Presented on Thursday, April 30, 1981

Mr. Chairman and members of the Committee:

I am Darrell Ralls, Director of the Department of General Services, and I am here today to testify in favor of SB 54. SB 54 deals with personal injury protection and uninsured motorist coverage on state owned vehicles. SB 54 is the vehicle which the Senate Insurance and Banking Committee chose and recommended to this Committee to incorporate the principles in SB 132. SB 132 also dealt with providing personal injury protection and uninsured motorist coverage on state owned vehicles. The Senate Committee recommended that these two bills be combined because they both have the same subject area and because SB 54 passed the Senate before SB 132 was acted upon. We are conveying to the committee today those amendments which will carry out the recommended merger of SB 132 with SB 54.

It might be helpful to briefly review the legislative history of this issue. In 1979, Senate Bill 245 was introduced and passed. The purpose of the bill was to authorize the Department of General Services to provide uninsured motorist and personal injury protection coverage for state and public entity bodies and for State owned vehicles furnished for public use pursuant to state law. However, Attorney General's Opinion #5038, issued on September 17, 1980, stated that "Personal Injury Protection" could not be provided on state vehicles used on official business, and further, that no authority existed for this deficiency to be remedied by purchase of other commercial coverage. The effect of this ruling is that there is no medical coverage on non-employee passengers in state vehicles.

The following are examples of these situations:

1. Students at Higher Education institutions who are transported in state vehicles for participation in athletic events, field trips and other authorized activities;

bill. This bill will clear up the remaining institutional impediments to ridesharing in the public sector.

Conservation of our petroleum resources will help reduce our reliance on foreign oil. Ridesharing is a major contributor to the conservation effort. The Oregon Department of Transportation strongly encourages early passage of this measure.

PROPOSED AMENDMENTS TO A-ENGROSSED SENATE BILL 54

On page 1 of the printed A-engrossed bill, line 2, delete "ridesharing" and insert "governmental liability" and delete "and" and insert ", 278.100," and after "278.205" insert "and 278.215; and declaring an emergency."

After line 3, insert:

"Section 1. ORS 278.100 is amended to read:

"278.100. (1) There [hereby] is established a Liability Fund as a separate account in the Restoration Fund under ORS 278.020, which shall be used:

"(a) To provide insurance or self-insurance for the liability of the State of Oregon and its officers, agents or employees, and for the liability of a participating local public body and its officers, agents or employees, for or on account of any loss, damage or injury within the scope of ORS 30.260 to 30.300; and[, including]

"(b) To provide insurance or self-insurance required for or associated with the operation of motor vehicles within the state's or participating public body's control.

"(2) The Department of General Services shall manage the Liability Fund and administer the provisions of ORS 30.260 to 30.290, 278.005, 278.020 to 278.025, 278.035 and 278.100 to 278.135.

"SECTION 1a. If Enrolled Senate Bill 131 becomes law, then section 1 of this Act is repealed."

In line 4, delete "1" and insert "2".

In line 10, after "coverage" insert "or personal injury protection benefits".

In line 11, delete "743.792" and insert "743.835".

1 In line 12, after "including" insert a comma and after "to"
2 insert a comma.

3 In line 15, delete both commas.

4 Delete lines 17 through 21 and insert:

5 "Section 3. ORS 278.215 is amended to read:

6 "278.215. (1) Any insurance or self-insurance provided by moneys
7 from the Liability Fund [against liability of the State of Oregon
8 and its officers, agents or employees, or against the liability of a
9 participating local public body and its officers, agents or
10 employees,] for or on account of the operation of motor vehicles
11 within the state's or public body's control, shall provide the
12 uninsured motorist coverage required under ORS [743.789 and] 743.786
13 to 743.792 and, except as specified in ORS 278.205, may provide the
14 personal injury protection benefits required under ORS 743.800 to
15 743.835.

16 "(2) Any local public body, as defined in ORS 30.260, which
17 establishes a self-insurance fund under ORS 30.282 [against
18 liability of the local public body and its officers, agents or
19 employees,] for or on account of the operation of motor vehicles
20 within the local public body's control, shall provide the uninsured
21 motorist coverage required under ORS [743.789 and] 743.786 to
22 743.792 and may provide the personal injury protection benefits
23 required under ORS 743.800 to 743.835.

24 "(3) The uninsured motorist coverage provided under this section
25 shall be excess over any other collateral benefits to which an
26 injured person is entitled, including, but not limited to, other
27 uninsured motorist coverage, insurance benefits, governmental
28 benefits or gratuitous benefits."

1 In line 22, delete "2" and insert "4".
2 On page 2, line 33, delete "3" and insert "5".
3 On page 3, after line 6, insert:
4 "SECTION 6. This Act being necessary for the immediate
5 preservation of the public peace, health and safety, an emergency is
6 declared to exist, and this Act takes effect on July 1, 1981."

A-Engrossed

Senate Bill 54

Ordered by the Senate March 9
(Including Amendments by Senate March 9)

HOUSE COMMITTEE ON STATE &
FEDERAL AFFAIRS 4-30-81
EXHIBIT H 5 pp.
SB 54
HAND ENGROSSED BILL

PRINTED PURSUANT TO ORS 171.130 by order of the President of the Senate in conformance with presession filing rules,
indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Task Force on
Energy Conservation)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to
consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires that insurance on state-owned vehicles furnished for public use include uninsured motorist
coverage and personal injury protection[, *but not less than \$25,000 per occupant for personal injury protection if
vehicle used for ridesharing*]. Includes ridesharing within scope of government tort liability. Limits use of
state-owned vehicles for car pools to use for state employees.

1 *governmental liability* A BILL FOR AN ACT

2 Relating to *ridesharing* amending ORS 30.265, 276.598 *and 278.100,* and 278.205 and *278.215 and declaring an*
emergency.

3 Be It Enacted by the People of the State of Oregon:

4 "Section 1. ORS 278.100 is amended to read:

5 "278.100. (1) There [hereby] is established a Liability Fund as
6 a separate account in the Restoration Fund under ORS 278.020, which
7 shall be used:

8 "(a) To provide insurance or self-insurance for the liability of
9 the State of Oregon and its officers, agents or employes, and for
10 the liability of a participating local public body and its officers,
11 agents or employes, for or on account of any loss, damage or injury
12 within the scope of ORS 30.260 to 30.300; and[, including]

13 "(b) To provide insurance or self-insurance required for or
14 associated with the operation of motor vehicles within the state's
15 or participating public body's control.

16 "(2) The Department of General Services shall manage the
17 Liability Fund and administer the provisions of ORS 30.260 to
18 30.290, 278.005, 278.020 to 278.025, 278.035 and 278.100 to 278.135.

19 "SECTION 1a. If Enrolled Senate Bill 131 becomes law, then
20 section 1 of this Act is repealed."

1a.
Section ²1] ORS 278.205 is amended to read:

278.205. (1) The Department of General Services may issue a certificate of motor vehicle liability insurance and make assessments therefor.

(2) When issued on vehicles owned by local public bodies, such insurance shall also include uninsured motorist coverage and may include personal injury protection benefits and shall provide at least the minimum coverages and amounts set forth in ORS 743.786 to 743.835. However, at the request of a local public body, the department may provide uninsured motorist ^{or personal injury protection benefits} coverage for the motor vehicles owned by the local public body in amounts greater than those required under ORS 743.786 to 743.792 743.835.

(3) When issued on state-owned vehicles furnished for public use including but not limited to use authorized under ORS 276.598, such insurance shall include uninsured motorist coverage and personal injury protection benefits and shall provide at least the minimum coverages and amounts set forth in ORS 743.786 to 743.835.

(4) The Department of General Services, by rule, may provide personal injury protection benefits in excess of those specified in this section.

[(5) The following motor vehicles shall be eligible for coverage provided under this section:

[(1)] (a) State-owned vehicles furnished for public use pursuant to state law, other than those furnished to another governmental agency.

[(2)] (b) Motor vehicles owned by local public bodies insured under the liability fund pursuant to ORS 30.282. }

"Section 3. ORS 278.215 is amended to read:

"278.215. (1) Any insurance or self-insurance provided by moneys from the Liability Fund [against liability of the State of Oregon and its officers, agents or employees, or against the liability of a participating local public body and its officers, agents or employees,] for or on account of the operation of motor vehicles within the state's or public body's control, shall provide the uninsured motorist coverage required under ORS [743.789 and] 743.786 to 743.792 and, except as specified in ORS 278.205, may provide the personal injury protection benefits required under ORS 743.800 to 743.835.

"(2) Any local public body, as defined in ORS 30.260, which establishes a self-insurance fund under ORS 30.282 [against liability of the local public body and its officers, agents or employees,] for or on account of the operation of motor vehicles within the local public body's control, shall provide the uninsured

1 motorist coverage required under ORS [743.789 and] 743.786 to
2 743.792 and may provide the personal injury protection benefits
3 required under ORS 743.800 to 743.835.

4 "(3) The uninsured motorist coverage provided under this section
5 shall be excess over any other collateral benefits to which an
6 injured person is entitled, including, but not limited to, other
7 uninsured motorist coverage, insurance benefits, governmental
8 benefits or gratuitous benefits."

9 Section⁴~~2~~ ORS 30.265 is amended to read:

10 30.265. (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is liable for its torts and
11 those of its officers, employees and agents acting within the scope of their employment or duties, whether
12 arising out of a governmental or proprietary function or while operating a motor vehicle in a ridesharing

1 arrangement authorized under ORS 276.598. As used in ORS 30.260 to 30.300, "Tort" includes any violation of
2 42 U.S.C. section 1983.

3 (2) Every public body is immune from liability for any claim for injury to or death of any person or injury
4 to property resulting from an act or omission of an officer, employee or agent of a public body when such
5 officer, employee or agent is immune from liability.

6 (3) Every public body and its officers, employees and agents acting within the scope of their employment or
7 duties, or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598, are
8 immune from liability for:

9 (a) Any claim for injury to or death of any person covered by any [workmen's] workers' compensation law.

10 (b) Any claim in connection with the assessment and collection of taxes.

11 (c) Any claim based upon the performance of or the failure to exercise or perform a discretionary function
12 or duty, whether or not the discretion is abused.

13 (d) Any claim which is limited or barred by the provisions of any other statute.

14 (e) Any claim arising out of riot, civil commotion or mob action or out of any act or omission in connection
15 with the prevention of any of the foregoing.

16 (f) Any claim arising out of an act done or omitted under apparent authority of a law, resolution, rule or
17 regulation which is unconstitutional, invalid or inapplicable except to the extent that they would have been
18 liable had the law, resolution, rule or regulation been constitutional, valid and applicable, unless such act was
19 done or omitted in bad faith or with malice.

20 (4) ORS 30.260 to 30.300 do not apply to any claim against any public body or its officers, employees or
1 agents acting within the scope of their employment arising before July 1, 1968. Any such claim may be
22 presented and enforced to the same extent and subject to the same procedure and restrictions as if ORS 30.260
23 to 30.300 had not been adopted.

24 (5) The amendments to ORS 30.270 and 30.285 enacted by chapter 609, Oregon Laws 1975, do not apply to
25 any claim against the state or its officers, employees or agents acting within the scope of their employment or
26 duties, arising before July 2, 1975. Any such claim may be presented and enforced to the same extent and is
27 subject to the same restrictions as if chapter 609, Oregon Laws 1975, had not been adopted, but the procedure
28 set forth in ORS 278.120 shall be applicable thereto.

29 (6) The amendments to ORS 30.270 and 30.285 enacted by chapter 609, Oregon Laws 1975, do not apply to
30 any claim against any local public body or its officers, employees or agents acting within the scope of their
31 employment or duties, arising before December 31, 1975. Any such claim may be presented and enforced to the
32 same extent and subject to the same restrictions as if chapter 609, Oregon Laws 1975, had not been adopted.

33 Section 3. ORS 276.598 is amended to read:

34 276.598. (1) Notwithstanding the provisions of ORS 283.395, the department may establish car pool or van
35 pool programs in which state-owned vehicles are used by state employees as commute vehicles, provided that a
36 daily, weekly or monthly fee is charged that is adequate to reimburse the state for the cost of providing such
37 vehicles for such purposes.

38 (2) The department shall prescribe rules which:

(a) Define the use of state-owned motor vehicles which constitute use in the conduct of state business and
40 distinguish such use from misappropriation for private use;

1 (b) Identify procedures for determining and collecting the appropriate charges from employees for the use
2 of commute vehicles; and

3 (c) Identify procedures to be used in the operation of state-owned vehicles as commute vehicles in the state
4 car pool or van pool programs authorized in subsection (1) of this section.

5 (3) The department may authorize other state agencies to use state-owned vehicles under the control of
6 such agencies for the purposes set forth in subsection (1) of this section.

7 "SECTION 6. This Act being necessary for the immediate
8 preservation of the public peace, health and safety, an emergency is
9 declared to exist, and this Act takes effect on July 1, 1981.".

DEPARTMENT OF GENERAL SERVICES

Testimony in Support of Senate Bill 54

Mr. Chairman and members of the Committee:

I am Darrell Ralls, Director of the Department of General Services. Senate Bill 54 was introduced at the request of the Senate Interim Task Force on Energy Conservation. The major purpose of this bill is to clarify medical insurance coverage of state-owned vehicles used for ridesharing by state employees. The bill requires that insurance on these vehicles include uninsured motorist and personal injury protection benefits.

A-Engrossed Senate Bill 54 specifically provides for the following:

1. Requires Department of General Services to provide PIP coverage for all state vehicles used for "Public Purposes" in at least the minimum amounts required by statute. These are \$5,000 medical, dental and hospital expenses, \$1,000 funeral expenses, and disability benefits equal to 70 percent of lost income subject to maximum of \$750 per month up to 52 weeks.
2. Authorizes the Department of General Services to adopt by rule higher benefits than the minimum amounts stated above.
3. Specifically identifies that state employees participating in a ridesharing arrangement in a state-owned vehicle authorized under ORS 276.598 are acting within the scope of their employment and are covered by the state liability fund.
4. Amends ORS 276.598 to limit ridesharing arrangements in state-owned vehicles to state employees.

The Department, acting under instructions from the Chairman of the Senate Banking and Insurance Committee, is supporting the introduction of amendments to A-Engrossed SB 54 to incorporate the provisions contained in SB 132 which also dealt with PIP coverage on state vehicles. SB 132 was introduced at the request of the Department of General Services and both SB 54 and 132 were assigned to the Senate Banking and Insurance Committee. Because both bills deal with providing personal injury protection benefit coverage on state-owned vehicles, and since SB 54 passed the Senate before SB 132 was acted upon by the Senate Insurance and Banking Committee, the Committee recommended that Senate Bill 132 be tabled, and its provisions be incorporated as amendments to Senate Bill 54. The Chairman of the Senate Committee recommended this course of action to the department, since SB 54 was not considered controversial, both bills dealt with PIP coverage and it would be necessary to ultimately reconcile the language of the two bills. The amendments which we are recommending thus have the endorsement of the Senate Insurance and Banking Committee and were prepared at the request of that Committee. The proposed amendments are identified as SB 54-2, dated April 27, 1981.

It might be helpful to briefly review the legislative history of this issue. In 1979, Senate Bill 245 was introduced at the request of the Department of General Services and enacted into law. The Act authorized the Department of General Services to provide "Uninsured Motorist" coverage for state and public entity bodies; and Personal Injury Protection coverage for public entities and for state-owned vehicles furnished for public use pursuant to state law. The staffs of both the Department of Justice and General Services interpreted this language as authorizing both Uninsured Motorist and Personal Injury Protection for public entities and state vehicles. Subsequent re-evaluation by the Justice Department

reversed this interpretation. Attorney General's Opinion #5038, issued on September 17, 1980, stated that "Personal Injury Protection" could not be provided on state vehicles used on official business, and further, that no authority existed for this deficiency to be remedied by purchase of other commercial coverage. This ruling did not affect state employe drivers and passengers as their medical needs are covered by Workers' Compensation benefits.

However, the effect of this ruling is that there is no medical coverage on non-employe passengers in state vehicles. This creates a serious deficiency in the state insurance program as there are a number of bonafide situations where non-state employes are passengers in state vehicles while the vehicle is being used in an official capacity. The following are examples of these situations:

1. Students at Higher Education institutions who are transported in state vehicles for participation in athletic events, field trips and other authorized activities;
2. Volunteers and clients of the Department of Human Resources who are passengers in a state vehicle driven by a state employe;
3. Prisoners or persons being transported in State Police or related law enforcement vehicles;
4. Employers of other public jurisdictions who may be passengers in a state vehicle (e.g., Federal, City or County employes conducting joint inspections with state employes); and
5. Any other instance in which a non-state employe is a passenger in a state vehicle which is driven by a state employe or agent.

A second Attorney Generals' opinion, OP-5118 dated February 25, 1981, stated, "we suggest that as a practical matter legislation would be necessary before any significant PIP coverage can be made available."

This deficiency in the State's vehicle insurance program is also inconsistent with ORS 486.570 which requires self-insurers to provide the same level of coverage as is required for commercially purchased vehicle liability policies.

The amendments to Senate Bill 54 proposed by the Department of General Services will correct these deficiencies by: 1) specifying that the Tort Liability Fund may be used to provide insurance or self-insurance for personal injury protection benefits on all state-owned vehicles, including those provided for public use, and 2) by specifying that these benefits will be governed by ORS 743.800 to 743.835 on the same basis as private insurers. The amendments also include an emergency clause so that these deficiencies may be remedied as soon as possible.

A line-by-line explanation of the proposed amendments follows:

<u>Line Item</u>	<u>Explanation</u>
1. Page 1, Lines 1 through 6	Technical amendments recommended by Legislative Counsel redefining the bill title.
2. Lines 7 through 15	Department of General Services' technical amendments to restructure portions of ORS 278.100.

<u>Line Item</u>	<u>Explanation</u>
3. Page 1, Lines 16 through 18	Clarifies that the Liability Fund can be used to provide insurance or self-insurance required for or associated with the operation of motor vehicles. This change is necessary to clarify public policy that personal injury protection coverage can be provided by the Liability Fund.
4. Page 1, Lines 19 through 21	Existing law.
5. Page 1, Lines 22 and 23	Provides for the repeal of Section 1 of this act if SB 131 becomes law. Senate Bill 131 restructures the language relating to the establishment and purpose of the Liability Fund which would also permit the use of the Fund for the purposes allowed in these amendments.
6. Page 1, Line 24	Technical amendment to change the section number.
7. Page 1, Lines 25 and 26	Permits the Department of General Services to provide personal injury protection benefits to local public bodies in excess of the minimum coverages required by ORS 743.800 to 743.835 when requested by the local public body.

<u>Line Item</u>	<u>Explanation</u>
8. Page 1, Line 27	Expands the statute citation to include all of the statute governing personal injury protection benefits. This is a technical amendment to accommodate the amendment described in Item 7 above.
9. Page 2, Lines 1 through 3	Technical anendment to change punctuation.
10. Page 2, Line 4	Proposes the deletion of restrictive language regarding personal injury protection coverage on state-owned vehicles. The proposed policy is contained in our proposed amendment relating to ORS 278.215 described in Items 11 and 12 below.
11. Page 2, Lines 5 through 15	This section clarifies that insurance as well as self-insurance provided by moneys from the State Liability Fund shall include Uninsured Motorist coverage and may include Personal Injury Protection benefits, unless required by ORS 278.205 (ridesharing requiring PIP contained in A-Engrossed SB 54). Statute citations are expanded to include the entire ORS statutes governing these coverages. This clarifies that the state will be governed by the same statutes as a private insurance company when these coverages are provided.

<u>Line Item</u>	<u>Explanation</u>
12. Page 2, Lines 16 through 23	Permits a local public body which establishes a liability self-insurance fund to include personal injury protection benefits and expands the statute citations for uninsured motorist and personal injury protection benefits. This is required to be consistent with the amendments to ORS 278.215 (1) in Item 11 above.
13. Page 2, Lines 24 through 28	Existing law.
14. Page 3, Lines 1 through 3	Technical amendments recommended by Legislative Counsel to renumber sections.
15. Page 3, Lines 4 through 6	Emergency clause to be effective July 1, 1981.

A-Engrossed

Senate Bill 54

STATE & FEDERAL AFFAIRS
EXHIBIT H JULY 2, 1981
SB 54 5 pages
HAND-ENGROSSED BILL

Ordered by the Senate March 9
(Including Amendments by Senate March 9)

PRINTED PURSUANT TO ORS 171.130 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Task Force on Energy Conservation)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires that insurance on state-owned vehicles furnished for public use include uninsured motorist coverage and personal injury protection[, but not less than \$25,000 per occupant for personal injury protection if vehicle used for ridesharing]. Includes ridesharing within scope of government tort liability. Limits use of state-owned vehicles for car pools to use for state employees.

1 governmental liability A BILL FOR AN ACT

2 Relating to ridesharing amending ORS 30.265, 276.598, ^{278.100,} and 278.205 and declaring an
emergency.

3 Be It Enacted by the People of the State of Oregon:

4 "Section 1. ORS 278.100 is amended to read:

5 "278.100. (1) There [hereby] is established a Liability Fund as
6 a separate account in the Restoration Fund under ORS 278.020, which
7 shall be used:

8 "(a) To provide insurance or self-insurance for the liability of
9 the State of Oregon and its officers, agents or employees, and for
10 the liability of a participating local public body and its officers,
11 agents or employees, for or on account of any loss, damage or injury
12 within the scope of ORS 30.260 to 30.300; and [, including]

13 "(b) To provide insurance or self-insurance required for or
14 associated with the operation of motor vehicles within the state's
15 or participating public body's control.

16 "(2) The Department of General Services shall manage the
17 Liability Fund and administer the provisions of ORS 30.260 to
18 30.290, ~~278.005~~, 278.020 to 278.025, 278.035 and 278.100 to 278.135.

19 "SECTION 1a. If Enrolled Senate Bill 131 becomes law, then
20 section 1 of this Act is repealed."

1 a.
Section ²[1] ORS 278.205 is amended to read:

278.205. (1) The Department of General Services may issue a certificate of motor vehicle liability insurance and make assessments therefor.

(2) When issued on vehicles owned by local public bodies, such insurance shall also include uninsured motorist coverage and may include personal injury protection benefits and shall provide at least the minimum coverages and amounts set forth in ORS 743.786 to 743.835. However, at the request of a local public body, the department may provide uninsured motorist ^{or personal injury protection benefits} coverage for the motor vehicles owned by the local public body in amounts greater than those required under ORS 743.786 to ~~743.792~~ 743.835.

(3) When issued on state-owned vehicles furnished for public use including but not limited to use authorized under ORS 276.598, such insurance shall include uninsured motorist coverage and personal injury protection benefits and shall provide at least the minimum coverages and amounts set forth in ORS 743.786 to 743.835.

(4) The Department of General Services, by rule, may provide personal injury protection benefits in excess of those specified in this section.

[5] The following motor vehicles shall be eligible for coverage provided under this section:

[1] (a) State-owned vehicles furnished for public use pursuant to state law, other than those furnished to another governmental agency.

[2] (b) Motor vehicles owned by local public bodies insured under the liability fund pursuant to ORS 30.282.

"Section 3. ORS 278.215 is amended to read:

"278.215. (1) Any insurance or self-insurance provided by money from the Liability Fund [against liability of the State of Oregon and its officers, agents or employees, or against the liability of a participating local public body and its officers, agents or employees,] for or on account of the operation of motor vehicles within the state's or public body's control, shall provide the uninsured motorist coverage required under ORS [743.789 and] 743.786 to 743.792 and, except as specified in ORS 278.205, may provide the personal injury protection benefits required under ORS 743.800 to 743.835.

"(2) Any local public body, as defined in ORS 30.260, which establishes a self-insurance fund under ORS 30.282 [against liability of the local public body and its officers, agents or employees,] for or on account of the operation of motor vehicles within the local public body's control, shall provide the uninsured

1 motorist coverage required under ORS [743.789 and] 743.786 to
(743.792 and may provide the personal injury protection benefits
3 required under ORS 743.800 to 743.835.

"(3) The uninsured motorist coverage provided under this section
shall be excess over any other collateral benefits to which an
injured person is entitled, including, but not limited to, other
uninsured motorist coverage, insurance benefits, governmental
benefits or gratuitous benefits."

Section²[2] ORS 30.265 is amended to read:

10 30.265. (1) Subject to the limitations of ORS 30.260 to 30.300, every public body is liable for its torts and
11 those of its officers, employees and agents acting within the scope of their employment or duties, whether
12 arising out of a governmental or proprietary function or while operating a motor vehicle in a ridesharing

1 arrangement authorized under ORS 276.598. As used in ORS 30.260 to 30.300, "Tort" includes any violation of
2 42 U.S.C. section 1983.

3 (2) Every public body is immune from liability for any claim for injury to or death of any person or injury
4 to property resulting from an act or omission of an officer, employee or agent of a public body when such
5 officer, employee or agent is immune from liability.

6 (3) Every public body and its officers, employees and agents acting within the scope of their employment or
7 duties, or while operating a motor vehicle in a ridesharing arrangement authorized under ORS 276.598, are
8 immune from liability for:

9 (a) Any claim for injury to or death of any person covered by any [workmen's] workers' compensation law.

10 (b) Any claim in connection with the assessment and collection of taxes.

11 (c) Any claim based upon the performance of or the failure to exercise or perform a discretionary function
12 or duty, whether or not the discretion is abused.

13 (d) Any claim which is limited or barred by the provisions of any other statute.

14 (e) Any claim arising out of riot, civil commotion or mob action or out of any act or omission in connection
15 with the prevention of any of the foregoing.

16 (f) Any claim arising out of an act done or omitted under apparent authority of a law, resolution, rule or
17 regulation which is unconstitutional, invalid or inapplicable except to the extent that they would have been
18 liable had the law, resolution, rule or regulation been constitutional, valid and applicable, unless such act was
19 done or omitted in bad faith or with malice.

20 (4) ORS 30.260 to 30.300 do not apply to any claim against any public body or its officers, employees or
21 agents acting within the scope of their employment arising before July 1, 1968. Any such claim may be
22 presented and enforced to the same extent and subject to the same procedure and restrictions as if ORS 30.260
23 to 30.300 had not been adopted.

24 (5) The amendments to ORS 30.270 and 30.285 enacted by chapter 609, Oregon Laws 1975, do not apply to
25 any claim against the state or its officers, employees or agents acting within the scope of their employment or
26 duties, arising before July 2, 1975. Any such claim may be presented and enforced to the same extent and is
27 subject to the same restrictions as if chapter 609, Oregon Laws 1975, had not been adopted, but the procedure
28 set forth in ORS 278.120 shall be applicable thereto.

29 (6) The amendments to ORS 30.270 and 30.285 enacted by chapter 609, Oregon Laws 1975, do not apply to
30 any claim against any local public body or its officers, employees or agents acting within the scope of their
31 employment or duties, arising before December 31, 1975. Any such claim may be presented and enforced to the
32 same extent and subject to the same restrictions as if chapter 609, Oregon Laws 1975, had not been adopted.

33 Section 3. ORS 276.598 is amended to read:

34 276.598. (1) Notwithstanding the provisions of ORS 283.395, the department may establish car pool or van
35 pool programs in which state-owned vehicles are used by state employees as commute vehicles, provided that a
36 daily, weekly or monthly fee is charged that is adequate to reimburse the state for the cost of providing such
37 vehicles for such purposes.

38 (2) The department shall prescribe rules which:

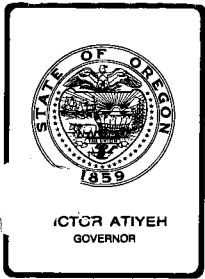
39 (a) Define the use of state-owned motor vehicles which constitute use in the conduct of state business and
40 distinguish such use from misappropriation for private use;

1 (b) Identify procedures for determining and collecting the appropriate charges from employees for the use
2 of commute vehicles; and

3 (c) Identify procedures to be used in the operation of state-owned vehicles as commute vehicles in the state
4 car pool or van pool programs authorized in subsection (1) of this section.

5 (3) The department may authorize other state agencies to use state-owned vehicles under the control of
6 such agencies for the purposes set forth in subsection (1) of this section.

7 "SECTION 6. This Act being necessary for the immediate
8 preservation of the public peace, health and safety, an emergency is
9 declared to exist, and this Act takes effect on July 1, 1981."



Department of Human Resources
CHILDREN'S SERVICES DIVISION
198 COMMERCIAL STREET S.E., SALEM, OREGON 97310

STATE & FEDERAL AFFAIRS
EXHIBIT I JULY 2, 1981
SB 54 1 page
CHILDREN'S SERVICES DIV.

June 15, 1981

Ms. Christina Park, Administrator
State and Federal Affairs Committee
453-E, State Capitol
Salem, OR 97310

Dear Ms. Park:

Children's Services Division is vitally interested in the passage of SB 54, which has been assigned to the House State and Federal Affairs Committee. The provision that we are particularly interested in is that which requires insurance paid from the Liability Fund to include Personal Injury Protection (PIP) for non-state employe passengers in state vehicles.

In the normal course of carrying out CSD's mission to provide services and protection to children, we transport many of them to and from foster homes, shelter care facilities, adoptive placements, etc. We also transport parents to parent training classes as well as provide a variety of services requiring our staff to transport passengers who are not state employes. At present, none of these children or clients are covered by Personal Injury Protection while traveling in state vehicles. It is critical for these children and clients that SB 54, as amended, be adopted as soon as possible to reduce potential risk.

Children's Services Division is asking your support to expedite passage of SB 54. The Division has received numerous calls and petitions from field staff expressing concern in the deficiency in State's Tort Liability Insurance Program.

I would appreciate the opportunity to answer any further questions related to this issue. My telephone number is 378-4374.

Sincerely,

R. Karen Roach
Administrator

RKR:tc