

SENATE COMMITTEE ON JUDICIARY

January 17, 2005 Hearing Room 343

1:00 p.m. Tapes 1 - 2

Corrected 10/26/05

MEMBERS PRESENT: Sen. Ginny Burdick, Chair
Sen. Charles Starr, Vice-Chair
Sen. Roger Beyer
Sen. Floyd Prozanski
Sen. Charlie Ringo
Sen. Vicki Walker
Sen. Doug Whitsett

STAFF PRESENT: Bill Taylor, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD & WITNESSES:

Measure Introduction – Work Session
Adoption of Committee Rules – Organizational Meeting
Overview of Oregon’s Judicial Branch and the State Court System
Chief Justice Wallace P. Carson, Jr.
Associate Justice W. Michael Gillette
Lane County Circuit Court Judge Karsten H. Rasmussen
Oregon Tax Court Judge Henry C. Breithaupt
Chief Judge David V. Brewer, Court of Appeals

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker’s exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 1, A		
002	Chair Burdick	Calls the meeting to order at 1:07 p.m.
010	Vice-Chair Starr	Senate District 13. Introduces himself.
013	Sen. Walker	Senate District 7. Introduces herself.
021	Sen. Whitsett	Senate District 28. Introduces himself.
027	Sen. Prozanski	Senate District 4. Introduces himself.
030	Chair Burdick	Introduces Sen. Ringo and Beyer as well as committee staff, Joe O’Leary and Bill Taylor. Announces how the staff will interact with the committee during the session.
065	Chair Burdick	Opens a work session for the purpose of introducing committee bills.
MEASURE INTRODUCTION – WORK SESSION		
067	Joe O’Leary	Committee Counsel. Reads LC drafts for introduction (EXHIBITS A - K) .
090	Chair Burdick	Announces this is a courtesy vote only.
096	Bill Taylor	Counsel. Withdraws LC 1653.
107	Vice-Chair Starr	MOTION: Moves LC's 174, 175, 888, 1204, 1264, 1298, 1438, 1474, 1476, 1480: BE INTRODUCED as committee bills. VOTE: 6-0- 1

AYE: In a roll call vote, all members present vote Aye.
EXCUSED: 1 - Beyer
Hearing no objection, declares the motion CARRIED.

120 Chair Burdick

ADOPTION OF COMMITTEE RULES – ORGANIZATIONAL MEETING

127 Taylor Explains committee rules to be adopted by the committee
(EXHIBIT L).

150 Vice-Chair Starr **MOTION: Moves to ADOPT the proposed Committee Rules.**

VOTE: 6-0- 1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Beyer

162 Chair Burdick **The motion CARRIES.**

OREGON JUDICIAL SYSTEM – INFORMATIONAL MEETING

152 Wallace P. Carson, Jr. Chief Justice, Oregon Supreme Court. Submits Orientation Materials for the committee **(EXHIBIT M)**. Introduces Associate Justice W. Michael Gillette.

252 W. Michael Gillette Associate Justice, Oregon Supreme Court. Discusses the rule of law – what it means and why courts matter. Touches upon the constitution which explains judicial powers.

276 Justice Gillette Discusses origin of court systems in British monarchy, dispute solved by and for a King.

300 Justice Gillette Says the role of the Judge as an individual outside the problem, was solving disputes.

350 Justice Gillette Discuss creation of Articles of Confederation and eventually Constitution, declaring judiciary rights.

403 Justice Gillette Explains the role of the Legislative and Executive branch in the judiciary.

417 Justice Gillette Discusses tradition and responsibility of state government, legislators, compared to other branches of government.

475 Justice Gillette Says the Bill of Rights and Constitution are the documents we serve.

TAPE 2, A

062 Justice Gillette States his own pride and privilege of serving the Constitution, the judiciary.

100 Chair Burdick Thanks Justice Gillette for speaking. Asks about description of how to choose cases as a Judge.

108 Justice Gillette Describes how they choose what cases are heard.

144 Sen. Ringo Asks about the need for greater resources at the appellate level.

155 Justice Gillette Responds it would be nice to have greater resources, but contends there are not enough lawyers to hear all cases so the work gets postponed. Cites the burdens that occur each time something new becomes illegal.

183 Chief Justice Carson Introduces the next panel of speakers, The Honorable Karsten H. Rasmussen, Henry C. Breithaupt, and David V. Brewer.

219 Karsten H. Rasmussen Lane County Circuit Court Judge. Gives a brief overview of the courts in Oregon with particular emphasis on circuit courts. Refers to map of Oregon Judicial Districts on page 4 of section 1 of **Exhibit M**.

234 Judge Rasmussen Explains the purpose of circuit courts.

275 Judge Rasmussen Discusses the caseload of circuit courts.

338 Judge Rasmussen Gives statistics of appeals from Lane County and low level of overturned appeals. Notes things may be changing as a result of

		the <i>Blakely</i> decision.
381	Judge Rasmussen	Names different specialty courts that exist within Circuit courts, e.g., drug court, family court. Speaks about tribal courts that exist in Oregon as well as constitutional common law courts. Says circuit courts are bound by the decisions of the appellate courts.
479	Chair Burdick	Inquires how the circuit court is responding to <i>Blakely</i> .
491	Judge Rasmussen	Describes the questions they are also trying to answer regarding <i>Blakely</i> . Hopes to get guidance from appellate courts.
TAPE 1, B		
035	Chair Burdick	Asks how the drug courts in Lane County have impacted the meth problem.
040	Judge Rasmussen	Discusses how early intervention is the key in dealing with these people.
061	Sen. Ringo	Asks if all counties are operating small claims courts.
063	Judge Rasmussen	Responds, yes.
067	Sen. Ringo	Inquires if the amount needs to be changed.
071	Judge Rasmussen	Thinks it works well in Lane County; expounds.
080	Henry C. Breithaupt	Oregon Tax Court Judge. Discusses Oregon Tax Courts which are statutory in nature. Says Oregon was the first state in the union to adopt a special tax court in 1961.
128	Judge Breithaupt	Lists taxes seen by the court on a regular basis. Describes magistrate division of the tax court which was created in 1997.
168	Judge Breithaupt	Discusses lack of communication that has occurred in the past between the government and a private citizen which has come before the magistrate division for resolution. Indicates all reasoned decisions are made in writing.
216	Judge Breithaupt	Describes the appeal process which goes directly to the Supreme Court. Says they have statewide jurisdiction and can travel to a particular county for dispute resolution.
235	David V. Brewer	Chief Judge, Oregon Court of Appeals. Provides basic introduction concerning the 10-judge Court of Appeals. Says view of the Court of Appeals goes directly to the Supreme Court.
264	Judge Brewer	Discusses the process they are using to fill the 10 th seat on this court through appointment made by the Governor. Says they average 4,000 appeals yearly with two goals: decide cases quickly and decide them correctly.
305	Judge Brewer	Describes increases in appeals due to legislative action and new Supreme Court decisions. Says six <i>Blakely</i> cases have been decided in the last month which causes them to divert court resources.
369	Judge Brewer	Describes how appellate courts operate on a daily basis with judges reviewing all briefs and arguments before decisions are rendered.
388	Judge Brewer	Discusses reduction in backlog with only five cases under advisement for 12 months or more. Discusses motions made in appellate courts as well as a motions panel which they have formed.
435	Judge Brewer	Mentions two programs: Appellate Settlement Program and holding oral arguments in schools. Announces that the Appellate Court could come to any community.
452	Judge Brewer	Discusses priorities and decision making in the appellate courts.
TAPE 2, B		

044	Chair Burdick	Commends them for getting out into the community. Announces that the committee will also be traveling into the community.
054	Chief Justice Carson	Describes the operations of the Oregon Supreme Court. Discusses statutory docket priorities for courts (Appendix C) under section II of Exhibit M .
115	Chief Justice Carson	Discusses state court administration under tab VI of Exhibit I .
136	Chair Burdick	Thanks all participants for the information they have provided today.
139	Sen. Prozanski	Indicates circuit court judge contact could be made through Judge Rasmussen.
157	Chief Justice Carson	Says Multnomah County is looking forward to the committee visit. Encourages committee members to contact any members of the courts for help.
172	Sen. Walker	Notes she has been traveling to Klamath Falls; says the staff and judges are very helpful and dedicated public servants.
194	Chair Burdick	Adjourns the meeting at 2:45 p.m.

EXHIBIT SUMMARY

- A. **Introductions, LC 174, staff, 3pp**
- B. **Introductions, LC 175, staff, 7pp**
- C. **Introductions, LC 888, staff, 5pp**
- D. **Introductions, LC 1204, staff, 3pp**
- E. **Introductions, LC 1264, staff, 6pp**
- F. **Introductions, LC 1298, staff, 2pp**
- G. **Introductions, LC 1438, staff, 2pp**
- H. **Introductions, LC 1474, staff, 2pp**
- I. **Introductions, LC 1476, staff, 2 pp**
- J. **Introductions, LC 1480, staff, 2 pp**
- K. **Introductions, LC 1653, staff, 7pp**
- L. **Rules, Committee, staff, 3pp**
- M. **Judicial System, Orientation Materials, Chief Justice Wallace P. Carson, Jr., 137 pp**