

SENATE COMMITTEE ON JUDICIARY

March 22, 2005
1:00 P.M.

Hearing Room 343
Tapes 77 - 78

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: **Joe O'Leary, Counsel**
 William E. Taylor, Counsel
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 181 – Public Hearing & Work Session
 SB 645 – Public Hearing & Work Session
 SB 275 – Public Hearing & Work Session
 SB 95 – Work Session
 SB 115 – Work Session
 SB 599 – Public Hearing & Work Session
 SB 493 – Work Session
 SB 938 – Work Session
 SB 331 – Work Session

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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 77, A		
003	Chair Burdick	Calls the meeting to order at 1:15 p.m., introduces middle school job shadows, and opens a public hearing on SB 181.
<u>SB 181 – PUBLIC HEARING</u>		
018	Joe O'Leary	Counsel. Describes SB 181 relating to not allowing a court to waive or defer filing fees or court costs for inmates who are plaintiffs in an action against a public body if the court finds that pleadings fail to state the claim for which relief may be granted. Introduces the -1 amendment (EXHIBIT A).
029	Judge Terry Leggert	Marion County Circuit Court Judge. Submits testimony and testifies in support of SB 181 (EXHIBIT B).
066	Sen. Prozanski	Asks about court discretion under this bill that might discriminate against certain individuals.
074	Leggert	Responds that they already treat inmate litigation differently. Talks about the federal system of rules dealing with these criteria.
097	Chair Burdick	Inquires about vexatious litigants.
101	Leggert	Declares that vexatious litigants often have mental disorders and demand attention.
111	Chair Burdick	Closes the public hearing and opens a work session on SB 181.
<u>SB 181 – WORK SESSION</u>		

113 Sen. Starr **MOTION: Moves to ADOPT SB 181-1 amendments dated 3/14/05.**
VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett

119 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
SEN. BURDICK will lead discussion on the floor.

122 Sen. Prozanski Introduces his job shadow.

134 Chair Burdick Closes the work session on SB 181 and opens a public hearing on SB 645.

SB 645 – PUBLIC HEARING

135 William E. Taylor Counsel. Describes SB 645 relating to establishing procedures for transferring structured settlement payment rights.

145 Paul Cosgrove National Association of Settlement Purchasers. Testifies in support of SB 645.

172 Cosgrove Addresses the -1 amendment (**EXHIBIT C**).

180 Chair Burdick Closes the public hearing and opens a work session on SB 645.

SB 645 – WORK SESSION

181 Sen. Starr **MOTION: Moves to ADOPT SB 645-1 amendments dated 3/17/05.**

VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett
Hearing no objection, declares the motion CARRIED.

183 Chair Burdick **MOTION: Moves SB 645 to the floor with a DO PASS AS**
185 Sen. Starr **AMENDED recommendation.**

VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett
Hearing no objection, declares the motion CARRIED.

188 Chair Burdick **SEN. BEYER will lead discussion on the floor.**

191 Chair Burdick Closes the work session on SB 645 and opens a public hearing on SB 275.

SB 275 – PUBLIC HEARING

193 Joe O’Leary Counsel. Describes SB 275 relating to the Oregon Uniform Trust Code. Introduces the -1 amendment (**EXHIBIT D**).

228 Valerie J. Vollmar Willamette University College of Law. Submits testimony and testifies in support of SB 275 (**EXHIBIT E**). Introduces the Oregon Uniform Trust Code (**EXHIBIT F**).

275 Vollmar Discusses the adoption of the Uniform Trust Code in 2000.

339 Vollmar Submits testimony from judges Claudia Burton and Rita Batz Cobb (**EXHIBITS G & H**).

357 Vollmar States that all the parties support the -1 amendment (**Exhibit D**).

369 Ron Bailey Trust and Estate Attorney, Portland, Oregon. Submits testimony and testifies in support of SB 275 (**EXHIBIT I**).

405 Bailey Talks about current trustee law in Oregon.

473 Allyn Brown Attorney, Elder Law Section of the Oregon State Bar. Submits testimony and testifies in support of SB 275 (**EXHIBIT J**).

TAPE 78, A

036 Brown Details the struggle in interpreting some of the current trusts.

068 Tim O’Rourke Submits testimony and testifies in support of SB 275 (**EXHIBIT K**).

128 Susan Gary University of Oregon, School of Law. Submits testimony and testifies in support of SB 275 (**EXHIBIT L**).

178 Gary Addresses the trustee’s duty to report.

212 Gary Talks about the Oregon Uniform Trust Code (**Exhibit F**). Stresses their support of the -1 amendment.

243	Chair Burdick	Goes over the bill's reasoning and effects for the record.
249	Gary	Stresses that, in the most part, Oregon Law is not changed, but instead the law is made easier and streamlined.
261	Chair Burdick	Asks if policy is changed later, is there anything in this bill that would limit the legislature's ability to dictate statutory authority.
264	Gary	Replies in the negative.
267	Sen. Beyer	Wonders about the consequences from violating a trust (A question from his job shadow).
275	Bailey	Responds with information on the remedies from the violation of a trust.
283	Vollmar	Cites information on the Uniform Trust Code.
318	Tim Martinez	Oregon Bankers Association. Testifies in support of SB 275. Expresses his support of the -1 amendment.
338	Ken Sherman	Oregon Bankers Association. Testifies in support of SB 275. Advocates the adoption of SB 275 which streamlines the process of trust provisions.
384	Alan Bennett	Senior Vice-President, Pioneer Trust Bank. Testifies in support of SB 275. Discusses how trust law needs to be amended.
435	Bennett	Talks about the Prudent Investor Act and the Uniform Principal and Income Act.
467	Bennett	Addresses the state of accounting practices under current privacy and trustee laws.
TAPE 77, B		
037	Martinez	Goes over the Oregon Bankers Association Trust dinner in Portland on April 19, 2005.
052	Rick Bennett	American Association of Retired Persons. Testifies in support of SB 275.
059	Chair Burdick	Closes the public hearing and opens a work session on SB 275.
<u>SB 275 – WORK SESSION</u>		
062	Sen. Starr	MOTION: Moves to ADOPT SB 275-1 amendments dated 3/10/05.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Walker, Whitsett
064	Chair Burdick	Hearing no objection, declares the motion CARRIED.
065	Sen. Starr	MOTION: Moves SB 275 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Walker, Whitsett
070	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. PROZANSKI will lead discussion on the floor.
074	Chair Burdick	Closes the work session on SB 275 and opens a work session on SB 95.
<u>SB 95 – WORK SESSION</u>		
081	Chair Burdick	Moves to the March 30, 2005 meeting. Closes the work session on SB 95 and opens a work session on SB 115.
<u>SB 115 – WORK SESSION</u>		
086	Joe O'Leary	Counsel. Describes SB 115 relating to repealing the provisions requiring the Department of Corrections to monitor health conditions of and provide treatment to persons who, as inmates, were subjected to radiation as part of a study.
118	Sen. Prozanski	Inquires about the past action on this bill.
130	Stan Czerniak	Assistant Director for Operations, Department of Corrections (DOC). Explains that there are 2 inmates still under the responsibility of the DOC. Goes on to discuss the class action

		lawsuit against the state.
159	Sen. Prozanski	Asks if there is any legal effect of the passage of this bill.
163	Czerniak	Replies that there is none to his knowledge.
165	Sen. Prozanski	Inquires about possible lawsuits brought from other inmates not addressed by the class action lawsuit.
168	Czerniak	Stresses he believes that everyone that was entitled was accounted for and present in the lawsuit.
201	Sen. Starr	MOTION: Moves SB 115 to the floor with a DO PASS recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Beyer, Whitsett
205	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor.
207	Chair Burdick	Closes the work session on SB 115 and opens a public hearing on SB 599.
<u>SB 599 – PUBLIC HEARING</u>		
208	William E. Taylor	Counsel. Describes SB 599 relating to drivers failing to carry proof of compliance with financial responsibility requirements. Introduces the -1 amendment (EXHIBIT M).
220	Michele Rossolo	Multnomah County. Submits testimony and testifies in support of SB 599 (EXHIBIT N). Addresses the -1 amendment.
262	Sen. Prozanski	Goes over the bill, section by section, for clarification. Expresses his hesitation to support a bill that includes the possibility of a clerk dismissing a court case.
321	Bradd Swank	Oregon Judicial Department. Discusses the -1 amendment, and how the courts will interpret the bill.
362	Sen. Walker	Details a personal story relating to the outcome of the bill.
390	Chair Burdick	Closes the public hearing and opens a work session on SB 599.
<u>SB 599 – WORK SESSION</u>		
394	Sen. Starr	MOTION: Moves to ADOPT SB 599-1 amendments dated 3/17/05.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
396	Chair Burdick	Hearing no objection, declares the motion CARRIED.
397	Sen. Starr	MOTION: Moves SB 599 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
404	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.
410	Chair Burdick	Closes the work session on SB 599 and opens a work session on SB 493.
<u>SB 493 – WORK SESSION</u>		
411	Joe O’Leary	Counsel. Describes SB 493 relating to lawfully using a bicycle lane to proceed through a red light at the top of a T intersection after stopping at a light. Introduces and discusses the -2 amendment (EXHIBIT O).
460	Sen. Starr	MOTION: Moves to ADOPT SB 493-2 amendments dated 3/21/05.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
463	Chair Burdick	Hearing no objection, declares the motion CARRIED.
467	Sen. Starr	MOTION: Moves SB 493 to the floor with a DO PASS AS AMENDED recommendation.

		VOTE: 4-0-3
475	Chair Burdick	EXCUSED: 3 - Beyer, Ringo, Whitsett Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
478	Chair Burdick	Closes the work session on SB 493 and opens a work session on SB 938.
<u>SB 938 – WORK SESSION</u>		
483	Joe O’Leary	Counsel. Describes SB 938 relating to providing exceptions for bicycles for the offense of unsafe passing on the right. Introduces the -1 amendment (EXHIBIT P).
TAPE 78, B		
038	Sen. Starr	MOTION: Moves to ADOPT SB 938-1 amendments dated 3/21/05.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
039	Chair Burdick	Hearing no objection, declares the motion CARRIED.
040	Sen. Starr	MOTION: Moves SB 938 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
043	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. PROZANSKI will lead discussion on the floor.
044	Chair Burdick	Closes the work session on SB 938 and opens a work session on SB 331.
<u>SB 331 – WORK SESSION</u>		
048	William E. Taylor	Counsel. Describes SB 331 relating to stenographic reporting of court proceedings. Introduces the -4 amendment (EXHIBIT Q).
060	Sen. Walker	Addresses the -4 amendment.
072	Chair Burdick	Asks what it takes to become certified as a stenographer.
073	Sen. Walker	Explains the certification requirements.
103	Sen. Starr	MOTION: Moves to ADOPT SB 331-4 amendments dated 3/22/05.
107	Sen. Walker	Declares a possible conflict of interest.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
110	Chair Burdick	Hearing no objection, declares the motion CARRIED.
111	Sen. Starr	MOTION: Moves SB 331 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3
		EXCUSED: 3 - Beyer, Ringo, Whitsett
115	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.
119	Chair Burdick	Closes the work session on SB 331 and adjourns the meeting at 2:45 p.m.

EXHIBIT SUMMARY

- A. SB 181, -1 amendment, staff, 1 p
- B. SB 181, written testimony, Terry Leggert, 1 p
- C. SB 645, -1 amendment, staff, 1 p
- D. SB 275, -1 amendment, staff, 5 pp

- E. **SB 275, written testimony, Valerie Vollmar, 3 pp**
- F. **SB 275, Oregon Uniform Trust Code, Valerie Vollmar, 157 pp**
- G. **SB 275, written testimony, Valerie Vollmar, 1 p**
- H. **SB 275, written testimony, Valerie Vollmar, 1 p**
- I. **SB 275, written testimony, Ron Bailey, 3 pp**
- J. **SB 275, written testimony, Allyn Brown, 1 p**
- K. **SB 275, written testimony, Tim O'Rourke, 2 pp**
- L. **SB 275, written testimony, Susan Gary, 3 pp**
- M. **SB 599, -1 amendment, Sen. Monnes Anderson, 1 p**
- N. **SB 599, written testimony, Michele Rossolo, 1 p**
- O. **SB 493, -2 amendment, staff, 1 p**
- P. **SB 938, -1 amendment, staff, 1 p**
- Q. **SB 331, -4 amendment, Sen. Walker, 2 pp**