

SENATE COMMITTEE ON JUDICIARY

March 30, 2005
1:00 P.M.

Hearing Room 343
Tapes 88 - 89

Corrected 10/26/05

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

MEMBER EXCUSED: Sen. Charlie Ringo

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

MEASURES/ISSUES HEARD:
SB 220 – Public Hearing
SB 947 – Public Hearing
SB 489 – Work Session
SB 221 – Public Hearing
SB 39 – Work Session
SB 41 – Work Session
SB 250 – Public Hearing
SB 251 – Work Session
SB 806 – Public Hearing

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 88, A		
004	Chair Burdick	Calls the meeting to order at 1:12 p.m. and opens a public hearing on SB 220.
SB 220 – PUBLIC HEARING		
008	Chair Burdick	Moves SB 220 to Wednesday, April 6, 2005. Closes the public hearing on SB 220 and opens a public hearing on SB 947.
SB 947 – PUBLIC HEARING		
014	William E. Taylor	Counsel. Describes SB 947 relating to the Department of Human Services being required to make records concerning reports of child abuse available to any person if the child dies or suffers serious physical injury.
027	Tom Gallagher	Oregon Newspaper Publishers Association. Submits an informational packet and testifies in support of SB 947 (EXHIBIT A). Discusses the testimony relating to child abuse.
055	Gallagher	Stresses that they are willing to work on amendments if needed.
068	Therese Bottomly	Managing Editor, The Oregonian. Testifies in support of SB 947 and talks about the Oregonian article included in the testimony

		from Tom Gallagher (Exhibit A).
099	Bottomly	Comments on the Supreme Court's stance on public records.
105	Sen. Prozanski	Expresses his conceptual support for SB 947 and details his hesitance over certain issues relating to personal records.
116	Bottomly	Explains the public record law in relation to the issue raised by Sen. Prozanski.
129	Sen. Prozanski	Asks if she believes there should be provisions to make sure criminal investigations are not jeopardized.
143	Bottomly	Addresses the issue of the release of public records possibly harming a criminal investigation.
152	Sen. Prozanski	Stresses that there still might be a problem of harming of criminal investigation.
162	Gallagher	Clarifies the public record law.
171	Chair Burdick	Asks about protections relating to the public records law.
175	Gallagher	Offers information on the release of records under the public records law.
179	Bottomly	Elaborates on the information relating to the public records law.
193	Jeneca Jones	Editor, West Lane News. Talks about how valuable public records are to reporting the truth. Discusses a story she wrote concerning child abuse and the lack of availability of certain public records.
244	Gallagher	Stresses his support for SB 947.
253	Sen. Walker	Commends the media for their investigatory methods.
271	Una Swanson	Child Protective Services Program Manager, Department of Human Services (DHS). Submits testimony and testifies in opposition to SB 947 (EXHIBIT B).
320	Swanson	Continues reading testimony in opposition to SB 947, focusing on analyzing sections of the bill (Exhibit B).
373	Chair Burdick	Asks about certain scenarios where the DHS might support the bill.
386	Swanson	Replies that they are supportive of advancing the public's knowledge and interest of public records.
398	Chair Burdick	Inquires about the safety of individuals under the public records law.
399	Swanson	Responds with several negative aspects of SB 947 and addresses the above issue.
426	Taylor	Wonders about the access to law enforcement records.
429	Swanson	Replies that both the DHS and law enforcement records would be available under the bill.
435	Taylor	Attempts to clarify the statutes relating to DHS and child abuse recording law.
438	Swanson	Offers information on the records.
456	Sen. Prozanski	Clarifies the issues relating to child abuse records and the role of the DHS.
475	Chief Bob Tardif	Police Chief, Newburg, Oregon. Testifies on SB 947.
TAPE 89, A		
024	Chair Burdick	Advocates that the proponents and opponents should get together to address their problems with the bill. Closes the public hearing on SB 947 and opens a work session on SB 489.
<u>SB 489 – WORK SESSION</u>		
039	Joe O'Leary	Counsel. Describes SB 489 relating to repealing the provisions allowing the appeal of the Public Utility Commission orders to circuit court. Discusses the -1 amendment (EXHIBIT C).
055	Sen. Walker	Comments on SB 489 and the problems with passing such a bill.

083 Chair Burdick Commends Sen. Walker on following the issue so closely.
091 Sen. Starr MOTION: Moves SB 489 to the floor with a DO PASS AS AMENDED recommendation.
VOTE: 5-0-2
EXCUSED: 2 - Beyer, Ringo
093 Chair Burdick Hearing no objection, declares the motion CARRIED.
SEN. WALKER will lead discussion on the floor.
096 Chair Burdick Closes the work session on SB 489 and opens a public hearing on SB 221.

SB 221 – PUBLIC HEARING

100 William E. Taylor Counsel. Describes SB 221 relating to certain information obtained by the Department of Human Services in connection with special morbidity and mortality studies being confidential, non-discoverable and inadmissible in any proceeding and exempt from disclosure under public records law.
111 Paul Cieslak Manager, Acute and Communicable Disease Program, Department of Human Services. Submits written testimony, the -1 amendment, and proposed amendments to SB 221 (**EXHIBITS D – F**).
143 Cieslak Discusses the purposes behind bringing this bill to the legislature.
170 Cieslak Addresses information on epidemiologic diseases (especially Hepatitis C).
191 Cieslak Expresses his support for the amendments (**Exhibits E & F**).
201 Chair Burdick Inquires about the -1 amendment and the proposed amendment.
208 Cieslak Talks about the drafting of the amendments.
225 Dr. Mel Kohn State Epidemiologist, Department of Human Services. Testifies in support of SB 221.
248 Alan Tresidder Oregon Trial Lawyers Association. Submits written testimony from Don Payne, a person who had contracted Hepatitis C from surgery, and had a difficult time gathering the necessary information from the Department of Human Services (**EXHIBIT G**).
290 Tom Gallagher Oregon Newspaper Publishers. Testifies in support of SB 221.
301 Scott Gallant Oregon Medical Association. Testifies in support of SB 221. Advocates care and caution when dealing with such a sensitive issue.
351 Chair Burdick Closes the public hearing on SB 221 and opens a work session on SB 39 and SB 41.

SB 39 & SB 41 – WORK SESSION

370 Chair Burdick Moves both SB 39 & SB 41 to Monday, April 14, 2005. Closes the work session on SB 39 & SB 41 and opens a public hearing on SB 250.

SB 250 – PUBLIC HEARING

375 Joe O’Leary Counsel. Describes SB 250 relating to allowing the courts to commit defendants who lacks the capacity to stand trial to a treatment facility other than the state
413 Bob Joondeph Executive Director, Oregon Advocacy Center. Submits testimony and testifies in support of SB 250 (**EXHIBIT H**).
460 Joondeph Discloses the effort required to deal with the overcrowding issue.
TAPE 88, B
040 Joondeph Addresses the problems of overflow and how they are able to get the inmate or prisoner evaluations done quickly and safely.
055 Joondeph Talks about the budget concerns facing the department.
068 Chair Burdick Asks about the fiscal impact statement.

069	Joondeph	Replies with information on where the fiscal is located.
072	Sen. Whitsett	Inquires what would occur if the evaluation was not completed within an acceptable amount of time.
076	Joondeph	Replies that there would currently be no specific penalty under this bill.
094	Marvin Fickle	Superintendent, Oregon State Hospital, Department of Human Services. Submits testimony and testifies in opposition to SB 250 (EXHIBIT I).
126	Chair Burdick	Inquires about the different estimates on a fiscal impact.
130	Fickle	Replies with information on the budget concerns relating to the county jails providing too many patients to efficiently administer.
143	Chair Burdick	Asks about their inability to provide beds.
147	Fickle	Responds with information on the patients who are under the responsibility of the Oregon State Hospital under this current law.
163	Sen. Prozanski	States that this is merely the tip of the iceberg with the Oregon State Hospital and their funding problems.
178	Chair Burdick	Closes the public hearing on SB 250 and opens a work session on SB 251.

SB 251 – WORK SESSION

187	Chair Burdick	Calls a recess at 2:18 p.m.
188	Chair Burdick	Recalls the meeting to order at 2:20 p.m.
189	William E. Taylor	Describes SB 251 relating to extending the statute of limitations for custodial interference in any degree. Introduces the -1 amendment (EXHIBIT J). Submits written testimony from Merle Weiner, law professor at the University of Oregon (EXHIBIT K).
212	Chair Burdick	Closes the work session on SB 251 and calls the meeting to recess at 2:24 p.m.
218	Chair Burdick	Calls the meeting to order at 2:25 p.m. and opens a public hearing on SB 806.

SB 806 – PUBLIC HEARING

220	William E. Taylor	Counsel. Describes SB 806 relating to expanding the definition of public body under the current Oregon Tort Claims Act to include private, nonprofit organizations that provide transportation services.
230	Jacqueline Zimmer	Oregon Association of Area Agencies on Aging and Disabilities. Expresses their desire to work with the drafting of the bill.
243	Doug Bartlett	Executive Director, community action agency, Yamhill County. Testifies in support of SB 806. Discusses the reasoning behind the bill.
292	Alan Tresidder	Oregon Trial Lawyers Association. Submits testimony and testifies in opposition to SB 806 (EXHIBIT L). Explains the history of tort claims act in relation to the bill.
352	Chair Burdick	Encourages cooperation with the opponents to fix any problems they might have with the bill.
364	Sen. Gary George	Senate District 2. Testifies in support of SB 806. Describes the steps taken in the past to deal with this issue.
420	Chair Burdick	Closes the public hearing on SB 806 and adjourns the meeting at 2:35 p.m.

EXHIBIT SUMMARY

- A. SB 947, informational packet, Tom Gallagher, 33 pp
- B. SB 947, written testimony, Una Swanson, 2 pp
- C. SB 489, -1 amendment, staff, 1 p
- D. SB 221, written testimony, Paul Cieslak, 3 pp
- E. SB 221, -1 amendment, staff, 1 p
- F. SB 221, proposed amendment, staff, 1 p
- G. SB 221, written testimony, Alan Tresidder, 1 p
- H. SB 250, written testimony, Bob Joondeph, 2 pp
- I. SB 250, written testimony, Marvin Fickle, 1 p
- J. SB 251, -1 amendment, staff, 1 p
- K. SB 251, written testimony, Merle Weiner, 2 pp
- L. SB 806, written testimony, Alan Tresidder, 1 p