

SENATE COMMITTEE ON JUDICIARY

May 03, 2005
1:00 P.M.

Hearing Room 343
Tapes 128 - 129

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

MEASURES/ISSUES HEARD:
 SB 881 – Work Session
 SB 221 – Work Session
 SB 568 – Work Session
 HB 2287 – Public Hearing and Work Session
 HB 2288 – Public Hearing and Work Session
 HB 2289 – Public Hearing and Work Session
 HB 2290 – Public Hearing and Work Session
 HB 2291 – Public Hearing and 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.

TAPE/#	Speaker	Comments
TAPE 128, A		
003	Chair Burdick	Calls the meeting to order at 1:16 p.m. and opens a work session on SB 881.
<u>SB 881 – WORK SESSION</u>		
010	Joe O'Leary	Counsel. Describes SB 881 relating to prescribing instructional programs for court-appointed trustees. Introduces and discusses the -3 amendment (EXHIBIT A).
045	Chair Burdick	Inquires if the -3 is all inclusive.
049	O'Leary	Replies that the -3 replaces the entire bill.
052	Michelle Rossolo	Legislative Aide, Sen. Monnes Anderson. Testifies in support of the -3 amendment.
059	Bradd Swank	Oregon Judicial Department. Discusses the changes made in the -3 amendment.
090	Swank	Talks about the sunset clause in the -3 amendment.
110	Chair Burdick	Asks about if the Chief Justice could expand the scope of the program.
111	Swank	Replies that they could choose such an option.
116	Sen. Beyer	Inquires about the problem that this bill is attempting to fix.

121	Rossolo	Explains the problems facing judges when identifying and assigning court appointed trustees.
138	Sen. Prozanski	Addresses section 5 of the -3 amendment dealing with the sunset clause.
141	Swank	Discusses the sunset provision in the bill and how they can regulate its continuation.
154	Sen. Whitsett	Asks about the continuing education requirements required for court appointed trustees.
160	Swank	Stresses that there are no continuing education requirements in the -3 amendment.
171	Sen. Starr	MOTION: Moves to ADOPT SB 881-3 amendments dated 5/3/05.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Walker
174	Chair Burdick	Hearing no objection, declares the motion CARRIED.
174	Sen. Starr	MOTION: Moves SB 881 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Walker
178	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. MONNES ANDERSON will lead discussion on the floor.
181	Chair Burdick	Closes the work session on SB 881 and opens a work session on SB 221.
<u>SB 221 – WORK SESSION</u>		
183	William E. Taylor	Counsel. Describes SB 221 relating to making certain information obtained by the Department of Human Services in connection with special morbidity and mortality studies confidential, nondiscoverable, and inadmissible in any proceeding and exempt from disclosure under public records law. Introduces the -1 amendment (EXHIBIT B).
195	Alan Tresidder	Oregon Trial Lawyers Association. Testifies in support of SB 221.
213	Paul Cieslak	Department of Human Services. Testifies in support of SB 221.
219	Starr	Asks if they support the -1 amendment.
221	Cieslak	Replies yes.
226	Sen. Starr	MOTION: Moves to ADOPT SB 221-1 amendments dated 3/1/05.
228	Sen. Prozanski	Declares his support for the -1 amendment and asks for more authority for this agency to more accurately complete their job.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
262	Chair Burdick	Hearing no objection, declares the motion CARRIED.
265	Sen. Starr	MOTION: Moves SB 221 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
268	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
277	Chair Burdick	Closes the work session on SB 221 and asks unanimous consent to suspend the rules to reconsider SB 568.
282	Sen. Starr	MOTION: Moves to RECONSIDER the vote by which SB 568 was moved to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 - Ringo

Hearing no objection, declares the motion CARRIED.

Opens a work session on SB 568.

288 Chair Burdick

290 Chair Burdick

SB 568 – WORK SESSION

291 Taylor

Counsel. Describes SB 568 relating to increasing the fines and imposes suspension of driving privileges for persons who exceed the speed limit or designated speed by more than 30 miles per hour or who drives 100 miles per hour or greater. Introduces and describes the -1 amendment (**EXHIBIT C**).

305 Sen. Prozanski

Details why this bill needed an amendment and why it is before the committee once again.

325 Sen. Walker

Inquires about the speeding violations covered under this statute.

330 Sen. Prozanski

Discusses the different violations covered under the bill.

367 Sen. Walker

Asks about emergencies requiring excessive speeds.

373 Sen. Prozanski

Addresses the “choice of evils” defense.

385 Sen. Starr

MOTION: Moves to ADOPT SB 568-1 amendments dated 4/29/05.

VOTE: 7-0-0

Hearing no objection, declares the motion CARRIED.

388 Chair Burdick

390 Sen. Starr

MOTION: Moves SB 568 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 7-0-0

Hearing no objection, declares the motion CARRIED.

393 Chair Burdick

SEN. PROZANSKI will lead discussion on the floor.

397 Chair Burdick

Closes the work session on SB 568 and opens a public hearing on HB 2287.

HB 2287 – PUBLIC HEARING

399 Sam Sears

Counsel. Describes HB 2287 relating to authorizing additional bankruptcy documents to be presented for recordation in deed records of counties.

420 Gary Blacklidge

Debtor/Creditor Section, Oregon State Bar. Submits testimony and testifies in support of HB 2287 (**EXHIBIT D**).

TAPE 129, A

023 Sen. Ringo

Inquires if the notice would be brief; one page.

025 Blacklidge

Replies that it would most likely be one page.

034 Chair Burdick

Closes the public hearing and opens a work session on HB 2287.

SB 2287 – WORK SESSION

037 Sen. Starr

MOTION: Moves HB 2287 to the floor with a DO PASS recommendation.

VOTE: 7-0-0

Hearing no objection, declares the motion CARRIED.

040 Chair Burdick

SEN. RINGO will lead discussion on the floor.

041 Chair Burdick

Closes the work session on HB 2287 and opens a public hearing on HB 2288.

SB 2288 – PUBLIC HEARING

043 Sam Sears

Counsel. Describes HB 2288 relating to allowing the distribution of proceeds from the sale of chattel in possessory lien foreclosure to persons holding subordinate lien or security interest in chattel.

054 David Hercher

Debtor/Creditor Section, Oregon State Bar. Submits testimony and testifies in support of HB 2288 (**EXHIBIT E**).

068 Sen. Walker

Declares her support of the bill.

081 Chair Burdick

Closes the public hearing and opens a work session on HB 2288.

HB 2288 – WORK SESSION

083 Sen. Starr **MOTION: Moves HB 2288 to the floor with a DO PASS recommendation.**
VOTE: 7-0-0
086 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
SEN. WALKER will lead discussion on the floor.
089 Chair Burdick Closes the work session on HB 2288 and opens a public hearing on HB 2289.

HB 2289A – PUBLIC HEARING

091 Sam Sears Counsel. Describes HB 2289A relating to allowing the claiming of successor to a small estate or personal representative to file one or more supplemental affidavits at any time after the filing of original affidavit for the purpose of amending the original affidavit. Introduces the –A2 amendment (**EXHIBIT F**).
112 Ryan Gibb Elder Law Section, Oregon State Bar (OSB). Submits testimony and testifies in support of HB 2289A (**EXHIBIT G**).
152 Chair Burdick Inquires if the –A2 amendments change the intent of the bill.
154 Gibb Replies that they do not.
155 Sen. Ringo Asks about the filing period for these affidavits.
158 Gibb Responds with information on the deadline for affidavits.
164 Sen. Ringo Raises concerns with granting unlimited amounts of time to file these affidavits.
169 Gibb Stresses that the OSB does not seek unlimited amounts of time, goes on to talk about the reasoning behind the bill.
184 Sen. Ringo Wonders about merely letting these estates to become re-opened.
188 Gibb Addresses the issue raised by Sen. Ringo relating to the opening and closing of these types of cases.
196 Chair Burdick Asks what occurs when an individual who found additional property that increases the value to outside the definition of a small estate.
198 Gibb States that they have a bill in the House addressing this issue.
209 Sen. Whitsett Inquires how a personal representative can ever truly be complete with their job and be dismissed by the court.
215 Gibb Offers information on the statutory authority of personal representatives.
234 Chair Burdick Closes the public hearing and opens a work session on HB 2289.

HB 2289 – WORK SESSION

239 Sen. Starr **MOTION: Moves to ADOPT HB 2289-A2 amendments dated 5/2/05.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo
243 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
245 Sen. Starr **MOTION: Moves HB 2289 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo
247 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
SEN. RINGO will lead discussion on the floor.
250 Chair Burdick Closes the work session on HB 2289 and opens a public hearing on HB 2290.

HB 2290 – PUBLIC HEARING

251 Sam Sears Counsel. Describes HB 2290 relating to extending the time for filing accountings by personal representative and conservator

274	Ryan Gibb	from 30 to 60 days after specified events. Introduces and describes the -1 amendment (EXHIBIT H).
		Elder Law Section, Oregon State Bar. Submits testimony and testifies in support of HB 2290 (EXHIBIT I).
330	Gibb	Discusses the -1 amendment.
341	Chair Burdick	Asks if the court retains their ability to extend the time.
343	Gibb	Replies that they still have this ability.
354	Chair Burdick	Closes the public hearing and opens a work session on HB 2290.
<u>HB 2290 – WORK SESSION</u>		
358	Sen. Starr	MOTION: Moves to ADOPT HB 2290-1 amendments dated 5/2/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
362	Chair Burdick	Hearing no objection, declares the motion CARRIED.
364	Sen. Starr	MOTION: Moves HB 2290 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
367	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. BEYER will lead discussion on the floor.
372	Chair Burdick	Closes the work session on HB 2290 and opens a public hearing on HB 2291.
<u>HB 2291 – PUBLIC HEARING</u>		
374	Sam Sears	Counsel. Describes HB 2291 relating to allowing the trustee of a trust to bring an action on behalf of the abused trustor or abused spouse of trustor who is incapacitated or 65 or more years of age.
391	Ryan Gibb	Elder Law Section, Oregon State Bar. Submits testimony and testifies in support of HB 2291 (EXHIBIT J).
315	Chair Burdick	Closes the public hearing and opens a work session on HB 2291.
<u>HB 2291 – WORK SESSION</u>		
421	Sen. Starr	MOTION: Moves HB 2291 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
426	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. WHITSETT will lead discussion on the floor.
428	Chair Burdick	Closes the public hearing on HB 2291 and adjourns the meeting at 2:10 p.m.

EXHIBIT SUMMARY

- A. SB 881, -3 amendment, Sen. Monnes Anderson, 3 pp
- B. SB 221, -1 amendment, staff, 1 p
- C. SB 568, -1 amendment, staff, 1 p
- D. HB 2287, written testimony, Gary Blacklidge, 1 p
- E. HB 2288, written testimony, David Hercher, 1 p
- F. HB 2289, -A2 amendment, staff, 2 pp
- G. HB 2289, written testimony, Ryan Gibb, 2 pp
- H. HB 2290, -1 amendment, staff, 1 p

- I. **HB 2290, written testimony, Ryan Gibb, 1 p**
- J. **HB 2291, written testimony, Ryan Gibb, 1 p**