

SENATE COMMITTEE ON JUDICIARY

April 21, 2003
8:00 a.m.

Hearing Room 343
Tapes 102-103

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Ginny Burdick, Vice-Chair
 Sen. Ted Ferrioli
 Sen. Charlie Ringo
 Sen. Charles Starr
Sen. Vicki Walker

STAFF PRESENT: **Bill Joseph, Counsel**
 Craig Prins, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2061A Public Hearing and Work Session**
 HB 2054 Public Hearing and Work Session
 HB 2087 Public Hearing and Work Session
 HB 2269A Public Hearing and Work Session
 HB 2049A 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 102, A		
003	Chair Minnis	Calls the meeting to order at 8:15 a.m. as a sub-committee and opens a public hearing on HB 2061A.
<u>HB 2061A PUBLIC HEARING</u>		
007	Rich Parker	Attorney, Portland, OR. Submits testimony and testifies in support of HB 2061A that modifies law relating to property that is exempt from execution for purpose of application against debt (EXHIBIT A) .
019	Sen. Ringo	Asks for clarification of the technical corrections.
026	Parker	Explains where the technical corrections are found in the bill.
048	Chair Minnis	Closes the public hearing on HB 2061A and opens a public hearing on HB 2054.
<u>HB 2054 PUBLIC HEARING</u>		
058	Jim Markee	Oregon Collectors Association. Testifies in support of HB 2054 that allows registered collection agency to appear as party in small claims proceedings without appearance by attorney for purpose of recovering amount owing on claim or account assigned to agency for collection.
089	Chair Minnis	Asks if the Oregon State Bar agrees with this bill.
091	Markee	Says, yes.
092	Sen. Ringo	Asks about small claim court issues.
098	Markee	Says the majority of claims are defaults.
116	Chair Minnis	Closes the public hearing on HB 2054 and opens a work session.
<u>HB 2054 WORK SESSION</u>		

119 Vice Chair Burdick **MOTION: Moves HB 2054 to the floor with a DO PASS recommendation.**
VOTE: 4-0-2
EXCUSED: 2 - Sen. Walker, Sen. Ferrioli
122 Chair Minnis **Hearing no objection, declares the motion CARRIED.**
SEN. STARR will lead discussion on the floor.
124 Chair Minnis Closes the work session on HB 2054 and opens a work session on HB 2061A.

HB 2061A WORK SESSION

128 Bill Joseph Committee Counsel. Reviews HB 2061A that modifies law relating to property that is exempt from execution for purpose of application against debt.

155 Vice Chair Burdick Asks about the wild card exemption.

157 Sen. Ringo Explains how the wild card exemption is used.

188 Vice Chair Burdick **MOTION: Moves HB 2061A to the floor with a DO PASS recommendation.**

VOTE: 4-0-2

EXCUSED: 2 - Sen. Walker, Sen. Ferrioli

192 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

SEN. RINGO will lead discussion on the floor.

199 Chair Minnis Closes the work session on HB 2061A and opens a public hearing on HB 2087.

HB 2087 PUBLIC HEARING

201 Craig Prins Committee Counsel. Introduces HB 2087 that modifies procedures for promulgation, amendment or repeal of rule of civil procedure by Council on Court Procedures.

206 Stuart Brown Oregon State Bar. Submits testimony and testifies in support of HB 2087 **(EXHIBIT B)**.

239 Chair Minnis Asks about the rules timeline.

246 Brown Explains the procedure.

255 Chair Minnis Closes the public hearing on HB 2087 and opens a work session.

HB 2087 WORK SESSION

258 Vice Chair Burdick **MOTION: Moves HB 2087 to the floor with a DO PASS recommendation.**

VOTE: 4-0-2

EXCUSED: 2 - Sen. Walker, Sen. Ferrioli

262 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

SEN. BURDICK will lead discussion on the floor.

276 Chair Minnis Closes the work session on HB 2087 and opens a public hearing on HB 2269A.

HB 2269A PUBLIC HEARING

280 Craig Prins Committee Counsel. Introduces HB 2269A that establishes rules governing operation of non-testamentary trusts.

283 Chris Cline Oregon State Bar. Submits testimony and testifies in support of HB 2269A (**EXHIBIT C**).

321 Chair Minnis Asks for a section-by-section review of the bill.

329 Cline Explains the bill by section. Explains that it makes the laws on wills and trusts consistent.

359 Vice Chair Burdick Asks about the continuation of a gift as part of the property settlement.

368 Cline Says this bill would not interfere with that. Discusses the remainder of the sections.

445 Vice Chair Burdick Asks about childrens' inheritance.

450 Cline Explains how the children are treated within a trust.

TAPE 103, A

010 Vice Chair Burdick Asks about splitting an inheritance between children.

018 Cline Clarifies how the inheritance would be shared. Continues discussing the remaining sections of the bill.

108 Chair Minnis Closes the public hearing on HB 2269A and opens a work session.

HB 2269A WORK SESSION

110 Vice Chair Burdick **MOTION: Moves HB 2269A to the floor with a DO PASS recommendation.**

VOTE: 5-0-1

EXCUSED: 1 - Sen. Walker

114 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

SEN. MINNIS will lead discussion on the floor.

121 Chair Minnis Closes the work session on HB 2269A and recesses the meeting at 8:50 a.m.

123 Chair Minnis Reconvenes the meeting at 9:04 a.m. as a sub-committee and opens a public hearing on HB 2049A.

HB 2049A PUBLIC HEARING

126 Bill Joseph Committee Counsel. Introduces HB 2049A that requires that motion to amend pleading to assert claim for punitive damages be filed and served not less than 60 days before date set for trial, and testifies in support of the bill on behalf of Bullivant, Houser, Bailey law firm.

175 Sen. Ringo Wonders about postponements.

178 Joseph Explains that a court can always postpone the trial date.

192 Sen. Ringo Expresses concern about the notice of claim for punitive damages.

208 Joseph Responds that this concern was not discussed in the House.

230 Sen. Ringo Believes that a motion to amend could be denied.

234 Chair Minnis Discusses his understanding of the bill regarding punitive damages.

245 Sen. Ringo Reviews the process previously followed.

287 Joseph Says there is no limitation in the statute to bringing a motion to amend for punitive damages.

330 Vice Chair Burdick Asks if most discovery is complete before the 60-day time period.

332 Joseph Says, yes.

333 Vice Chair Burdick Asks about new evidence introduced on discovery.

345	Joseph	Explains that there is a provision in the bill that would allow the courts to modify the dates.
394	Vice Chair Burdick	Asks if the deadline might inadvertently create an incentive to tack on punitive damages.
400	Joseph	Says the motion to amend requires a showing.
419	Chair Minnis	Asks if there is a limitation to how many times you can amend a motion.
432	Joseph	Explains there are potentially two opportunities to amend a motion.
TAPE 102, B		
023	Sen. Ringo	Expresses his belief that the 60 days is too much time.
053	Chair Minnis	Asks why a motion should not come up during trial.
071	Sen. Ringo	Discusses the difficulties involved.
082	Vice Chair Burdick	Asks why the number of days was increased.
083	Chair Minnis	Explains that it coincides with the motion for summary judgment.
125	Sen. Walker	Asks if this bill prevents amendment of pleadings at trial.
132	Joseph	Says, no.
151	Chair Minnis	Asks about the ability to appeal.
156	Joseph	Says there would be two opportunities to appeal.
180	Vice Chair Burdick	Expresses a concern with what the bill is trying to do.
189	Joseph	Discusses punitive damages.
202	Chair Minnis	Wonders if it is unfair that punitive damages can be amended into a complaint at the last minute.
205	Sen. Ringo	Explains that if it were unfair, the judge would deny the motion.
218	Susan Grabe	Oregon State Bar. Explains where the savings clause language came from.
226	Sen. Ringo	Asks for more time to consider the bill.
230	Joseph	Says he would be happy to work with Sen. Ringo and Sen. Burdick on their concerns.
263	Chair Minnis	Closes the public hearing on HB 2049A and adjourns the meeting at 9:40 a.m.

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EXHIBIT SUMMARY

- A – HB 2061A, written testimony submitted by Rich Parker, 1 p**
- B – HB 2087, written testimony submitted by Stuart Brown, 1 p**
- C – HB 2269A, written testimony submitted by Christopher Cline, 1 p**