

SENATE COMMITTEE ON JUDICIARY

April 11, 2001 Hearing Room 343

1:00 p.m. Tapes 94 - 95

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Peter Courtney, Vice Chair
 Sen. Roger Beyer
 Sen. Ginny Burdick
 Sen. Verne Duncan
 Sen. Steve Harper
 Sen. Rick Metsger

STAFF PRESENT: **Craig Prins, Counsel**
 Annola DeJong, Committee Assistant

MEASURE HEARD: **SB 773 Work Session**
 SB 83 Public Hearing
 SB 591 Public Hearing and Work Session
 SB 290 Work Session
 SB 291 Work Session
 SB 419 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 94, A		
004	Chair Minnis	Calls the meeting to order at 1: 43 p.m. and opens a work session on SB 773.
<u>SB 773 WORK SESSION</u>		
008	Counsel Odell	Introduces SB 773 which states that notice requirements of Oregon Tort Claims Act do not apply if claimant was under age of 18 years when claim arose and claim is against public body that had custody of claimant when claim arose. Talks about the – 6 amendments (EXHIBIT A).
030	Sen. Kate Brown	Senate District 7 Testifies in support of the –6 amendments to SB 773.
041	Vice Chair Courtney	MOTION: Moves to ADOPT SB 773-6 amendments dated 04/11/01.
045	Sen. Harper	Asks if the opponents to SB 773 had their concerns addressed.
046	Counsel Odell	Responds yes.
050	Sen. Brown	Agrees.
057		VOTE: 7-0-0
058	Chair Minnis	Hearing no objection, declares the motion CARRIED.
059	Vice Chair	MOTION: Moves SB 773 to the floor with a DO PASS AS

	Courtney	AMENDED recommendation.
060	Counsel Odell	Talks about the fiscal impact statement for SB 773.
077	Sen. Harper	Asks for additional clarification.
079	Counsel Odell	Explains the fiscal impact statement further.
095	Sen. Brown	Expresses concern that the Department of Administrative Services (DAS) has changed their practice of waiving the notice of Tort Claims.
103	Chair Minnis	Clarifies his understanding of the fiscal impact and what it would accomplish.
125	Sen. Brown	Mentions that plaintiff attorneys may look to the Multnomah County circuit court ruling as the “rule of law.”
135	Sen. Duncan	Inquires about a “potential loss” claim.
136	Chair Minnis	Says it depends on what prevails in court.
150	Dan Hartman	Risk Management Division, Department of Administrative Services (DAS)
		Testifies in support of SB 773.
173	Sen. Harper	Asks if DAS is following the law.
175	Sen. Brown	Clarifies Sen. Harper’s question.
177	Hartman	Responds that DAS intends to follow the law.
189	Sen. Harper	Asks if SB 773 will increase the number of claims.
193	Hartman	Replies it may.
214	Sen. Beyer	Asks if the question about general funds or other funds was answered.
218	Hartman	Mentions these are other funds.
224	Sen. Duncan	Asks if other agencies are prepared to handle SB 773 in their budgets.
227	Hartman	Explains “risk charges.” States that DAS attempts to minimize subsidization among agencies.
239	Sen. Brown	Mentions that SB 773 was brought before the committee because of one particular case.
259		VOTE: 5-2-0
		AYE: 5 - Metsger, Courtney, Minnis, Duncan, Burdick
		NAY: 2 - R. Beyer, Harper
263	Chair Minnis	The motion Carries. SEN. BROWN will lead discussion on the floor.
272	Chair Minnis	Closes the work session on SB 773 and opens a public hearing on SB 83.

SB 83 PUBLIC HEARING

273	Vice Chair Courtney	Introduces SB 83 which defines a school safety zone.
286	Mark Davalos	Salem Keizer School District
		Submits testimony and testifies in support of SB 83 (EXHIBIT B).
363	Harold Burke-Sivers	Salem Keizer School District
		Testifies in support of SB 83.
401	Chair Minnis	Asks for an example of circumstances in which SB 83 would be applied.
405	Davalos	Discusses scenarios where an illegal activity, or potentially harassing activity is being conducted across the street from a school.
453	Chair Minnis	Requests an example of the sort of behavior that would give an officer probable cause to arrest.
465	Davalos	Describes an example of a person protesting in front of an

elementary school.

TAPE 95, A

044	Vice Chair Courtney	Submits testimony and testifies in support of SB 83. Refers to the submitted testimony of Mike Kolb, former principal of North Salem High School. Talks about why SB 83 is needed (EXHIBIT C & D) .
103	Sen. Harper	Verifies that SB 83 is increasing the penalty for activity that is already illegal.
105	Vice Chair Courtney	Agrees.
123	Counsel Prins	Notes SB 83 will elevate the penalty around a school zone. Talks about what SB 83 does not allow.
155	Sen. Metsger	Wonders if there are potential conflicts with the First Amendment.
171	Counsel Prins	States that SB 83 does not “abridge someone’s free speech.”
205	Sen. Metsger	Refers to lines 5 and 25, on page 1 of SB 83. Notes the word “intent” does not appear in both places.
210	Counsel Prins	Cites lines 5 and 6, on page 1 of SB 83. Talks about the interpretation of what is considered an inconvenience or unreasonable.
228	Chair Minnis	Acknowledges these are determined on a case by case base.
257	Davalos	Asks the committee to consider the issue of youths loitering around school grounds.
283	Vice Chair Courtney	States that SB 83 is trying to get people to move back.
309	Sen. Duncan	Agrees with Mr. Davalos and Sen. Courtney.
353	Sen. Harper	Inquires about the 1000 feet requirement .
358	Burke-Sivers	Replies that 1000 feet is reasonable compared with other schools across the country.
373	Counsel Prins	Talks about the issue of “authority to enforce” in relation to SB 83.
470	Vice Chair Courtney	States that the intent of SB 83 is deterrence.
489	Chair Minnis	Closes the public hearing on SB 83 and opens a public hearing on SB 591.

SB 591 PUBLIC HEARING

034	Harold Burke-Sivers	Salem-Keizer School District Submits testimony and testifies in support of SB 591 which modifies provisions relating to private security service providers (EXHIBIT E) .
088	Chair Minnis	Closes the public hearing on SB 591 and opens a work session on SB 290.

SB 290 WORK SESSION

090	Counsel Prins	Explains SB 290 which would give the Department of Public Safety Standards and Training discretion to deny certification to certain public safety officers convicted of possession of less than one ounce of marijuana. Introduces the –2 amendments (EXHIBIT F) .
115	Vice Chair Courtney	MOTION: Moves to ADOPT SB 290-2 amendments dated 03/08/01.
116		VOTE: 6-0-1
118	Chair Minnis	EXCUSED: 1 - Burdick Hearing no objection, declares the motion CARRIED.
119	Courtney	MOTION: Moves SB 290 to the floor with a DO PASS AS AMENDED recommendation.

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121 Chair Minnis **VOTE: 7-0-0**
Hearing no objection, declares the motion CARRIED.
SEN. COUTNEY will lead the discussion on the floor.
122 Chair Minnis Closes the work session on SB 290 and opens a work session on SB 591.

SB 591 WORK SESSION

132 Joan Davies **Department of Public Safety Standards and Training (DPSST)**
Submits testimony and testifies in support of SB 591. Explains the -1 amendments (**EXHIBIT G & H**).

138 Sen. Courtney **MOTION: Moves to ADOPT SB 591-1 amendments dated 04/10/01.**

146 **VOTE: 6-0-1**
EXCUSED: 1 - Burdick

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

148 Courtney **MOTION: Moves SB 591 to the floor with a DO PASS AS AMENDED recommendation.**

155 **VOTE: 6-0-1**

EXCUSED: 1 - Burdick

156 Chair Minnis **Hearing no objection, declares the motion CARRIED.**
SEN. MINNIS will lead discussion on the floor.

163 Chair Minnis Closes the work session on SB 591 and opens a work session on SB 291.

SB 291 WORK SESSION

164 Counsel Prins Talks about SB 291 which will allow persons with certain controlled substances convictions to be certified as private security officers. Introduces the -1 amendments (**EXHIBIT I**).
208 Sen. Duncan Inquires about raising the age requirement for armed private security officers.

218 Dianne Middle **Director, Department of Public Safety Standards and Training (DPSST)**

236 Sen. Harper Discusses the reasons for requesting this change.
Confirms DPSST has never issued a license to someone under the age of 21.

238 Middle Agrees.

284 Vice Chair Courtney **MOTION: Moves to ADOPT SB 291-1 amendments dated 03/30/01.**

305 **VOTE: 7-0-0**

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

307 Vice Chair Courtney **MOTION: Moves SB 291 to the floor with a DO PASS AS AMENDED recommendation.**

331 **VOTE: 7-0-0**

333 Chair Minnis **Hearing no objection, declares the motion CARRIED.**
SEN. MINNIS will lead the discussion on the floor.

338 Chair Minnis Closes the work session on SB 291 and opens a work session on SB 419.

SB 419 WORK SESSION

339 Counsel Prins Introduces SB 419 which will direct courts to include in protective custody order findings about the best interest of the

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Chair Minnis

child. Talks about the -2 and the -6 amendments (**EXHIBIT J & K**).
Closes the work session on SB 419 and adjourns the meeting at 3:00 p.m.

Submitted By,

Reviewed By,

Annola DeJong,
Committee Assistant

Craig Prins,
Counsel

EXHIBIT SUMMARY

A – SB 773, -6 amendments submitted by staff, dated 4/11/01, 1 p.

B – SB 83, written testimony submitted by Mark Davalos, Salem Keizer Public Schools, dated 4/11/01, 2 p.

C – SB 83, written testimony from Mike Kolb, submitted by Sen. Peter Courtney, dated 5/19/99, 1 p.

D – SB 83, written testimony submitted by Peter Courtney, Senator, District 17, dated 4/11/01, 2 pp.

E – SB 591, written testimony submitted by Harold Burke-Sivers, Salem-Keizer School District, dated 4/11/01, 3 pp.

F – SB 290, -2 amendments submitted by staff, dated 3/08/01, 1 p.

G – SB 591, -1 amendments from staff, submitted by staff, dated 4/10/01, 1 p.

H – SB 591, written testimony submitted by Joan Davies, Department of Public Safety Standards and Training, dated 4/04/01, 2 pp.

I – SB 291, -1 amendments submitted by staff, dated 3/30/01, 2 pp.

J – SB 419, -2 amendments submitted by staff, dated 3/29/01, 31 pp.

K – SB 419, -6 amendments submitted by staff, dated 4/10/01, 2 pp.

L – SB 419, written testimony submitted by Ramona Foley, Department of Human Services, dated 4/11/01, 7 pp.