

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

February 23, 1999 Hearing Room 357

1:00 p.m. Tapes 44 - 45

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

STAFF PRESENT: Anne Tweedt, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: SB 25

SB 32

SB 61

SB 69

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 44, A		

004	Chair Shetterly	Calls meeting to order at 1:05 p.m.
<u>SB 25 - PUBLIC HEARING</u>		
013	Counsel Tweedt	SB 25 allows public official with control of public funds to deposit funds in amount insured by Federal Deposit Insurance Corporation or insured or guaranteed by private insurers before having to obtain certificates of participation from pool manager of depository bank for any amount over the FDIC insured amount.
019	Tim Martinez	Oregon Bankers Association Testifies and submits written testimony in support of SB 25 (EXHIBIT A). Discusses how SB 25 gives the option of insurance regarding bank fund deposits and how SB 25 will provide a marketing tool for banks.
062	Rep. Wells	Will the cost of insurance to cover these fund deposits be covered by the bank?
065	Martinez	The cost would be covered by the banks and the agencies would not lose any interest by participating in this insurance program.
070	Rep. Wells	How are the banks recovering the cost of insurance?
072	Martinez	The banks are recovering the insurance costs by utilizing these fund deposits.
092	Chair Shetterly	Closes public hearing.
<u>SB 25 n WORK SESSION</u>		
098	Rep. Uherbelau	MOTION: Moves SB 25 to the floor with a DO PASS recommendation.
		VOTE: 9-0-1 EXCUSED: Witt AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly
	Chair Shetterly	The motion CARRIES. REP. EDWARDS will lead discussion on the floor.

SB 32 PUBLIC HEARING

115	Counsel Tweedt	SB 32 limits accessibility of court records of involuntary commitments of mentally retarded persons.
123	Bob Joondeph	Oregon Advocacy Center Testifies and submits written testimony in support of SB 32 (EXHIBIT B). Discusses how SB 32 corrects a loophole in Oregon laws that protect the confidentiality of people with developmental disabilities.
148	Rep. Uherbelau	Does the confidentiality protection that this bill provides, apply to people who appeal a case?
157	Joondeph	Describes how the Court of Appeals handles confidentiality when a sealed file is presented to them.
165	Rep. Uherbelau	Is Section 2, sub/section c & d, redundant in stating the same orders?
173	Joondeph	The difference in the two sub/sections is that one is an oral order and the other is a written order.
184	Rep. Wells	Have you seen the final report regarding confidentiality that was created by the Civil Commitment Task Force during the interim?
190	Joondeph	Discusses how the task force created a bill which deals with medical records, but SB 32 deals with court records.
203	Chair Shetterly	What did SB 32 derive from the interim committee hearing regarding confidentiality?
209	Joondeph	At a previous hearing, records from the Court of Appeals file were distributed to the committee and to the people in the audience. My concern about these records being public brought about an analysis, which resulted in this bill.
214	Bradd Swank	State Court Administrator's Office Discusses the Chief Justice's order that addresses the issue of confidential material in briefs.
229	Chair Shetterly	Is that order in the latest Advance Sheets?
232	Swank	Yes.

SB 32 - WORK SESSION

238	Rep. Uherbelau	MOTION: Moves SB 32 to the floor with a DO PASS recommendation.
		VOTE: 9-0-1 EXCUSED: Witt AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Shetterly
	Chair Shetterly	The motion CARRIES. REP. LOWE will lead discussion on the floor.

SB 61 - PUBLIC HEARING

260	Counsel Tweedt	SB 61 requires that arbitration awards requiring payment of money that are filed with court must be accompanied by separate statement that contains information required for money judgments.
268	Karen Hightower	Oregon Advocacy Center Testifies and submits written testimony in support of SB 61 (EXHIBIT C). Discusses that he change in the bill was suggested by trial court staff as a way to improve court efficiency and to clear up the confusion litigants have in this area.
314	Chair Shetterly	Gives an example of how the procedure of submitting records, enacted by SB 61, would work.
306	Rep. Uherbelau	Explains how the judgment summary docket works.
330	Chair Shetterly	Closes public hearing.

SB 61 ñ WORK SESSION

340	Rep. Williams	MOTION: Moves SB 61 to the floor with a DO PASS recommendation.
		VOTE: 9-0 AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly

	Chair Shetterly	<p>The motion CARRIES.</p> <p>REP. WILLIAMS will lead discussion on the floor.</p>
<u>SB 25 - WORK SESSION</u>		
349	Chair Shetterly	<p>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WITT to BE RECORDED as voting AYE on the Do Pass Recommendation on SB 25.</p> <p>VOTE: 9-0</p>
<u>SB 32 - WORK SESSION</u>		
355	Chair Shetterly	<p>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WITT to BE RECORDED as voting AYE on the Do Pass Recommendation on SB 32.</p> <p>VOTE: 9-0</p>
<u>SB 69 - PUBLIC HEARING</u>		
363	Counsel Tweedt	SB 69 establishes that clerk of court must mail garnished money or proceeds to plaintiff or defendant within 21 days after court's order on claim of exemption instead of 10 judicial days.
384	Bradd Swank	<p>State Court Administrator's Office, Oregon Judicial Department</p> <p>Testifies and submits written testimony in support of SB 69 (EXHIBIT D). Discusses how the bill amends ORS 29.142 by lengthening the amount of time a court has to return moneys from a claim of exemption proceeding from 10 days to 20 days.</p>
447	Rep. Wells	Could you explain the procedure how the garnishment money goes from the court to the issuing of refund checks and the costs involved in this procedures?
464	Swank	States that Oregon is the only state that allows garnishments to be issued by the courts and by attorneys. Discusses these garnishment and exemption procedure.
Tape 45, A		
040	Swank	Continues discussion of garnishments and the exemption procedure.

045	Chair Shetterly	Gives example of the garnishment procedure.
060	Rep. Witt	When the court makes the determination on the claim of exemption, is it fair to assume that the court is always holding the funds?
063	Swank	We do have processes that would impose a penalty if the judgement creditor didn't have the money in court by a certain date, but the money isn't always available on the day of the claim of exemption hearing. This is why we need more time for the court to return moneys from a claim.
070	Rep. Witt	How frequently do the courts have the moneys from the claim in the time allowed and is the delinquent judgment creditor in compliance with the law?
074	Swank	No, the judgment creditor is not in compliance with the law. Most of the time we are able to get the money refunded within the ten days, but only the budget department could give the exact number of times that the money is received in courts within the time line.
083	Rep. Witt	Are there some situations where the courts would not have the refund money within 21 days?
187	Swank	Yes, there would still be times when the judgment creditor's money would not come in time.
189	Rep. Witt	What would be the penalty for the delinquent judgment creditor?
190	Swank	There are remedies and penalties that are applicable to the judgment creditor if they do not pay the money into the court in a timely manner.
100	Rep. Witt	Could there be an amendment allowing the court to wait for the money from the judgment creditor before they had to pay out the garnishment moneys?
109	Swank	This idea was discussed by the DOJ and it was unanimously agreed to have a specific time line requirement. Twenty-one days should be enough time for time allowance.
116	Rep. Witt	Discusses the time line for the courts and how it effects those involved in the procedure of garnishing.
134	Chair Shetterly	Describes some of the language in SB 69 that predicates funds from the judgment creditor being in possession of the court and the contempt power given the court to order the funds be paid, but the language does not predicate a time line.
148	Rep. Uherbelau	Discusses the remedies in the ORS 295.025 regarding delivery of funds to the

		court.
154	Chair Shetterly	States that the statute does not require a time line.
159	Rep. Witt	Expresses concern for the court releasing the funds in a timely manner.
169	Chair Shetterly	Discusses leaving SB 69 language alone regarding the 10-day time limit, but adding that the court not remit any garnished money to the plaintiff or defendant until it collects the funds from the judgment creditor.
174	Rep. Witt	SB 69 should state that 3 judicial days after receiving the funds, the court may release the money to the plaintiff. Those funds paid by check or draft are not officially received by the court until they have cleared through the payer's bank.
180	Chair Shetterly	Agrees that this language would work.
185	Swank	Discusses whether Rep. Witt's suggested language would work with the accounting department regarding computer procedures and if there be more costs implementing this.
196	Rep. Uherbelau	Explains that with Rep. Witt's suggested language, we would not be changing the time period, but the 3 days would not begin to run until after the court receives the funds.
201	Rep. Witt	Explains the time line procedure regarding the 10-day requirement for receiving funds.
207	Rep. Uherbelau	Asks if the time limit would still be 10 days.
209	Rep. Witt	States that this suggested language of the time limit would be more flexible for the court.
213	Rep. Uherbelau	Would the other suggested time line option require changing the computer system?
218	Swank	I would not know, but would have to ask our computer experts in our accounting department.
225	Rep. Wells	Are the exemption issues taken into consideration after the money is garnished from the employer?
233	Swank	Discusses the system of garnishing wages and the exemption proceedings of the court.

259	Rep. Williams	Discusses how simple the system of garnishing works for the defendant.
267	Rep. Edwards	How did the Oregon Judicial Department come up with the 21-day time limit for the court to return money to the plaintiff?
281	Swank	This time limit was suggested by some of the clerks in our office where they frequently have out-of-state checks and needed more time to clear these checks.
2840	Rep. Edwards	Do the 14 actual days and the 10 judicial days have the same connotation?
292	Chair Shetterly	States that they both mean Monday through Friday except in the case of holidays.
304	Chair Shetterly	Adjourns meeting at 1:55 p.m..

Submitted By, Reviewed By,

Nancy Richards, Anne E. Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

A - SB 25, Written testimony, Tim Martinez, p. 2

B - SB 32, Written testimony, Bob Joondeph, p. 1

C - SB 61, Written testimony, Karen Hightower, p. 1

D - SB 69, Written testimony, Bradd Swank, p. 2