

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

March 17, 1999 Hearing Room 357

1:00 p.m. Tapes 68 - 69

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

MEMBER EXCUSED: Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2925 - Public Hearing

SB 396 - Public Hearing

SB 401 - 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 68, A		

004	Chair Shetterly	Calls meeting to order at 1:06 p.m.
<u>HB 2925 ñ PUBLIC HEARING</u>		
011	Counsel Felton	HB 2925 requires filing affidavit of authority to perform marriages and affidavit of revocation of authority in certain circumstances.
028	Charles Stern	Yamhill County Clerk Testifies and submits written testimony in support of HB 2925 (EXHIBIT A). Discusses the three issues of HB 2925 regarding the authority to perform marriages.
067	Rep. Uherbelau	Who signs the affidavit for marriage?
072	Stern	Discusses the various organizational structures that would sign a marriage affidavit and who would sign. States that the intent of HB 2925 was not to limit the organization regarding how to sign the marriage affidavit.
097	Rep. Williams	Is it required that the signature be authorized on the marriage affidavit?
113	Stern	The intent of a marriage affidavit was to be in broad enough language to not address the issue of authorization.
110	Rep. Williams	States that there should be a statement on the marriage affidavit that the person solemnizing the marriage is authorized.
125	Stern	States that there would be no problem in adding language to the affidavit pertaining to the authorization of the person solemnizing the marriage.
127	Chair Shetterly	Asks about the filing of persons authorized for solemnizing marriages.
139	Stern	Discusses current law where you only need to register under one county.
147	Rep. Walker	States that in Alaska, anyone could fill out the affidavit for marriage. Has there been any attempt by the State of Oregon to have a statute requiring no authorization for solemnizing a marriage?
153	Stern	I am not aware of any attempt to not require authorization, but page 1, subsection (c) of HB 2925 allows a congregation to have no minister. The congregation could witness the marriage and someone from the congregation could sign the affidavit.
162	Chair Shetterly	States that the intent of HB 2925 is to create a uniform documentation of

		authority to sign the marriage affidavit, but not to limit any authority that already exists.
167	Stern	State the intent of HB 2925 is to provide a way to revoke that authority.
168	Chair Shetterly	Gives an example of a pastor who was stripped of his pastoral authority and yet continued to act in the name of pastor.
181	Stern	States that current Oregon law allows congregations to come together and authorize an individual to perform marriages.
189	Chair Shetterly	Where in the statutes is "church" defined?
196	Stern	I do not know of a statute that clarifies what a "church" is. States that HB 2925 broadly interprets the definition of a church.
208	Tom Wrosch	Notary Public section, Secretary of State's Corporation Division Testifies and submits written testimony in support of HB 2925 (EXHIBIT B). Discusses the two affidavits regarding notarization requirements.
233	Chair Shetterly	States that there should be some statement in the affidavit of marriage and the affidavit of revocation requiring the person to be authorized.
250	Chair Shetterly	Closes public hearing.
<u>SB 396 n PUBLIC HEARING</u>		
259	Counsel Felton	SB 396 requires notice to the Attorney General for certain requests for state agency records relating to litigation or claims.
271	Michael Reynolds	Solicitor General, Department of Justice (DOJ) Testifies and submits written testimony in support of SB 396 (EXHIBIT C). Discusses the public records law regarding litigation.
318	Rep. Uherbelau	Asks about public records that would be withheld from being disclosed because of litigation.
334	Reynolds	Discusses the public record law exemptions regarding disclosure of public records.
343	Chair Shetterly	Asks if there are exemptions that authorize nondisclosure in the event of litigation.

348	Reynolds	Yes. Explains that SB 396 provides a way for the Attorney General's Office to be notified of any request of public records.
366	Chair Shetterly	Asks about the process and who determines whether a public record can be disclosed.
369	Reynolds	Discusses the process of requesting public records.
375	Rep. Uherbelau	What public records are exempted from being disclosed?
388	Chair Shetterly	Explains the public meeting law regarding matters of litigation.
393	Reynolds	States that the intent of SB 396 is not to keep information away from the public, only information regarding pending litigation.
421	Rep. Uherbelau	Asks about the entitlement of a citizen to request public records. Are people in public records trained as to what public records should be disclosed?
447	Reynolds	Discusses the responsible agencies that are educated regarding the public records law.
Tape 69, A		
020	Rep. Williams	Discusses the different procedures of state agencies in handling public records requests.
035	Rep. Uherbelau	Asks about notice to the Attorney General's Office regarding public records requests.
045	Rep. Williams	Discusses the process of tort claim notice through the attorneys regarding public record disclosure.
053	Rep. Uherbelau	Asks about SB 401 having language that states "by someone having asserted a claim for which notice must be given".
060	Chair Shetterly	States that the "giving of notice" would define point of time. States that a person who "asserts a claim for which notice must be given" could disclose the public records before the notice.
066	Rep. Williams	Explains what happens with the public record request notice after the public records are received.
073	Rep. Uherbelau	Gives an example of what happens when an individual with no knowledge of the

		time line in a tort claim notice obtains public records.
085	Rep. Williams	Expresses concern for those individuals who know the process of tort claim notice time lines and obtain public records they shouldn't have.
090	Chair Shetterly	States that an agency or department is in control of disclosure of public records whether a tort claim notice has been filed or not.
104	Reynolds	Discusses the intent of SB 396 regarding the requirement of the tort claim notice.
131	Chair Shetterly	Would the courts have the authority to sanction a party who obtained evidence in violation of SB 396?
133	Reynolds	SB 396 is not designed to punish people in good faith who are trying to obtain information from the public records.
142	Chair Shetterly	Asks if someone has not filed a tort claim notice, if they are limited in asking the court for review.
156	Reynolds	Discusses the circumstance where someone obtains information through the public records and uses that information in a court trial. States that the only requirement in SB 396 is to give the Attorney General notice of a public record request.
199	Chair Shetterly	Closes public hearing.
<u>SB 401 - PUBLIC HEARING</u>		
210	Counsel Felton	SB 401 modifies laws relating to judicial review of orders issued by state agencies in contested cases.
237	Mike Reynolds	Solicitor General, Department of Justice (DOJ) Testifies in support of SB 401 and submits written testimony in behalf of Philip Schradle (EXHIBIT D). Discusses the large volume of orders regarding parole matters handled every month by the Board of Parole.
266	Rep. Uherbelau	Asks where it states that the Board of Parole is exempt from the requirement of including specific findings and conclusions in their orders.
272	Reynolds	Discusses the statutes and explains why these statutes exempt certain agencies from including specific findings and conclusions in their orders.
350	Diane Rea	Board of Parole, State of Oregon

		Testifies in support of SB 401. Discusses the procedures regarding Board of Parole orders.
377	Jim Nass	Legal Counsel, Oregon Supreme Court and Court of Appeals Testifies and submits written testimony in opposition of SB 401 (EXHIBIT E). Discusses and gives examples of when a governmental agency is exempted from explaining how its decision are supported by the evidence in the court records.
Tape 68, B		
045	Nass	Discusses the proposed amendment to SB 401 regarding judicial review (EXHIBIT F).
082	Chair Shetterly	Who proposed the amendment in the Senate?
084	Nass	The Appellate Legal Counsel proposed the amendment in the Senate.
086	Rep. Williams	Asks why the proposed amendments didn't sway the Senate.
089	Reynolds	Discusses what the intent of the amendment is regarding public policy of judicial review. Discusses the two-tier system regarding judicial review.
155	Rep. Williams	Asks for more explanation about the two-tier system regarding judicial orders.
170	Reynolds	Explains the two-tier system.
185	Rep. Uherbelau	Discusses the problems created when the court does not explain the reasons for their judgment orders.
230	Rea	Discusses court procedures for responding to the Administrative Review regarding the analysis of judgment orders.
262	Chair Shetterly	Isn't the Administrative Review properly presented to the court to establish the basis for judgment orders?
267	Nass	Discusses when judgment order explanations are provided. Explains that if SB 401 passes it would stop any explanations for judgment orders.
301	Rep. Williams	Asks whether the Supreme Court case ruling affects the explanations for judgment orders. Asks about the Administrative Review responses serving the purpose of explaining judgment orders.

318	Rea	Discusses Administrative Reviews and the workload it presents to the Parole Board. Discusses the intent of SB 401 regarding the requirement of detailed judgment orders.
358	Reynolds	Discusses that there is no reason to believe that if SB 401 passes, there will be no court order explanations.
400	Rep. Williams	Asks about the list of agencies that will be effected by SB 401.
408	Reynolds	States that some of the agencies have their own hearing and order issuing requirements.
419	Nass	States that it is only the Psychiatric Security Review Board and the Corrections Parole Board that have no order issuing requirement at this time.
425	Rep. Uherbelau	States that if SB 401 passes there will be no mandate for the agencies to give an explanation regarding judgment orders.
446	Rep. Walker	Asks whether the judgment order could be renamed as a finding of fact and a conclusion of law.
458	Rep. Williams	Discusses whether state agencies and courts are communicating concerning the judgment orders.
478	Chair Shetterly	Discusses the analogy between the process of "findings of fact" and the appeals from trial court.
Tape 69, B		
040	Chair Shetterly	Adjourns meeting at 2:30 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

EXHIBIT SUMMARY

A - HB 2925, Written testimony, Charles Stern, p. 1

B - HB 2925, Written testimony, Tom Wrosch, p. 2

C - SB 396, Written testimony, Michael Reynolds, p. 1

D - SB 401, Written testimony, Philip Schradle, p. 2

E - SB 401, Written testimony, James Nass, p. 5

F - SB 401, Proposed -1 amendment, Counsel, p. 1