

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

April 08, 1999 Hearing Room 357

1:00 p.m. Tapes 99 - 100

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

MEMBERS EXCUSED: Rep. Judy Uherbelau

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2720 - Work Session

SB 601A- Public Hearing

SB 618 - Public Hearing & Work Session

SB 839A - 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 99, A

004	Chair Shetterly	Calls meeting to order at 1:39 p.m.
<u>HB 2720 WORK SESSION</u>		
013	Counsel Felton	HB 2720 changes accounting period for probated estates. Presents the -1, -2, and -3 amendments. (EXHIBITS A-C).
022	Warren Deras	Attorney, Portland, Oregon Testifies and submits written testimony in support of HB 2720 (EXHIBIT D) . Explains the purposes of the amendments regarding the Uniform Trial Court Rules, the Oregon Revised Statutes, filing an annual account in a decedent's estate, and changing the time for closing a decedent's account.
064	Bradd Swank	State Court Administrator's Office, Department of Justice Expresses DOJ's support of the -1, -2, and -3 amendments to HB 2720. Discusses Mr. Deras being newly appointed to the Uniform Trial Court Rules Committee.
090	Rep. Williams	MOTION: Moves to ADOPT HB 2720 -1, -2, and -3 amendments dated 03/22/99.
		VOTE: 7-0 AYE: 7 - Backlund, Edwards, Lowe, Walker, Wells, Williams, Shetterly EXCUSED: 2 - Uherbelau, Witt
	Chair Shetterly	The motion CARRIES.
096	Rep. Williams	MOTION: Moves HB 2720 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0 AYE: 7 - Backlund, Edwards, Lowe, Walker, Wells, Williams, Shetterly EXCUSED: 2 - Uherbelau, Witt
	Chair Shetterly	The motion CARRIES.

REP. WILLIAMS will lead discussion on the floor.

SB 601A - PUBLIC HEARING

116	Counsel Tweedt	SB 601A specifies that animal of value of less than \$2,500 kept by decedent as pet is not part of estate. Presents the -A2 amendments (EXHIBIT E).
127	Susan Mentley	Oregon Humane Society Testifies in support of SB 601A (EXHIBIT F). Discusses a situation where an animal was left alone after the owner died. States that SB 601A promotes personal responsibility and reduces burden on shelters. Expresses support of the Humane Society for SB 601A.
162	Rep. Lowe	Is there any language in SB 601A that would nullify the dollar value of the pet?
178	Sharon Harmon	Oregon Humane Society Testifies in support of SB 601A (EXHIBIT G). Explains why SB 601A limits the value of the animal to less than \$2,500.
203	Allen Tresidder	Oregon Humane Society Testifies in support of SB 601A. States that the language on line 16, page 1 of SB 601A applies to any animal with value of less than \$2,500.
214	Chair Shetterly	Asks about the confusion of language in the summary of SB 601A regarding the pet not being a part of estate.
229	Tresidder	Legislative Counsel can help with any language confusion in SB 601A.
236	Rep. Wells	Is there a definition of "pet" in regards to SB 601A?
258	Rep. Walker	Asks about line 20, page 1 of SB 601A concerning the situation where there is no will, there is no personal representative, but there is a family member to take the abandoned pet.
279	Tresidder	I do not have the answer for that situation.
288	Chair Shetterly	States that whoever claims the pet first, gets to keep the pet unless the estate specifies the placement of the pet.
310	Warren Deras	Attorney, Portland, Oregon

		ORS 114.225 states that a personal representative has the right to take possession of the estate, but not if it is in the possession of an heir. Suggests that the approach of placing the abandoned pet would be an amendment to SB 601A saying that the personal representative shall not take possession of domestic pets.
364	Rep. Lowe	Suggests proposing amendments that include language about a possible dispute concerning the value of the pet.
393	Chair Shetterly	Closes public hearing.
<u>SB 618 n PUBLIC HEARING</u>		
399	Counsel Tweedt	SB 618 eliminates archaic provisions allowing abandoned wives to dispose of property. States that the Oregon Law Commission expresses support of SB 618.
429	Chair Shetterly	Closes public hearing.
<u>SB 618 n WORK SESSION</u>		
040	Rep. Lowe	MOTION: Moves SB 618 to the floor with a DO PASS recommendation.
435	Rep. Wells	What is the intent of SB 618?
438	Chair Shetterly	SB 618 makes it possible for a woman to dispose of her property if abandoned by her husband.
450	Rep. Wells	Asks about SB 618 using the word "their own property" and not "her own property".
457	Chair Shetterly	States that it should be "her own property".
469	Counsel Tweedt	Explains that "their" is plural because in SB 618, "wives" is plural.
477	Rep. Lowe	Asks about property with both husband and wife's name as owners and the deposition of that property if the husband abandons the wife.
Tape 100, A		
040	Chair Shetterly	Explains that the property mentioned in SB 618 has to be the woman's personal property.

		<p>VOTE: 5-0</p> <p>AYE: 5 - Backlund, Lowe, Wells, Williams, Shetterly</p> <p>EXCUSED: 4 - Edwards, Uherbelau, Walker, Witt</p>
	Chair Shetterly	<p>The motion CARRIES.</p> <p>REP. BACKLUND will lead discussion on the floor.</p>
<u>SB 839A n PUBLIC HEARING</u>		
062	Counsel Tweedt	SB 839A specifies procedures for opening safe deposit box of person who has died. There are proposed conflict amendments. (EXHIBIT H)
075	Tim Martinez	<p>Oregon Bankers Association</p> <p>Testifies and submits written testimony in support of SB 839A (EXHIBIT I). States that the Division of State Lands and the Estate Planning Section of the Oregon State Bar are in support of SB 839A. Explains the procedure for accessing a deceased person's deposit box.</p>
120	Rep. Wells	Where in SB 839A does it say that the people from the financial institution will be present when a deposit box is opened?
123	Martinez	That is stated on line 29, page 1 of SB 839A. States that there would be huge liability concerns if a person was allowed to open a deposit box without a representative of the financial institution present.
140	Rep. Wells	Asks about the language in SB 839A where someone would be watching while any heir obtains the contents of the deposit box. Line 29, page 1 of SB 839A states that is only necessary if there is a will in the box.
151	Martinez	Explains where the language is found in SB 839A regarding who has to be present for obtaining contents of the deposit box.
161	Chair Shetterly	States that the bank's liability factor would be huge if they let anyone open a deposit box without representation.
174	Rep. Williams	Line 29 , page 1 of SB 839A to means that the representative of the institution would be present.
197	Chair Shetterly	States that SB 839A does not have distinct language that a representative of the bank will attend the opening of the deposit box.

199	Martinez	States that the liability issue would prevent the circumstance of a person obtaining contents of the deposit box without representation of the bank.
205	Chair Shetterly	Is there a release of liability for a financial institution if it complies with the statute and doesn't require a representative and then personal property leaves the deposit box?
213	Martinez	Explains the language in SB 839A regarding conversion which releases the liability of the financial institution.
222	Rep. Williams	Suggests an amendment adding one line that would state that an employee of the financial institution has to be present at the opening of the deposit box.
238	Pam Leavitt	Oregon Credit Union League Testifies and submits written testimony in support of SB 839A (EXHIBIT J). States that a credit union usually has very few deposit boxes, but releasing one of the few employees to be present at a deposit box opening would be difficult.
249	Shetterly	The situation of the small financial institution not having an employee who could witness the opening of the box exemplifies the need for a statute that requires a representative to be present. States that an affidavit and death certificate proving the right of the person to open a deposit box would suffice for protection of just anybody opening the box.
283	Rep. Lowe	Would any language in SB 839A allow immediate access for the wife of a deceased husband to the deposit box?
295	Martinez	Explains that a copy of the death certificate and a signed affidavit as to who the person would allow immediate access to the box.
305	Chair Shetterly	Closes public hearing.
315	Chair Shetterly	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. EDWARDS and REP. WALKER to BE RECORDED as voting AYE on SB 618 to the floor with a DO PASS recommendation VOTE: 8-0-2 EXCUSED: REP. UHERBELAU and REP. WITT.
326	Chair Shetterly	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. EDWARDS and to BE RECORDED as voting AYE on HB 2720 on to the floor with a DO PASS AS AMENDED recommendation. VOTE: 8-0-2 EXCUSED: REP. UHERBELAU and REP. WITT.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton and Ann Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

- A - HB 2720, Proposed -1 amendments, Counsel, p. 1**
- B - HB 2720, Proposed -2 amendments, Counsel, p. 1**
- C - HB 2720, Proposed -3 amendments, Counsel, p. 1**
- D - HB 2720, Written testimony, Warren Deras, p. 2**
- E - SB 601A, Proposed -A2 amendments, Counsel p. 1**
- F - SB 601A, Written testimony, Susan Mentley, p. 1**
- G - SB 601A, Written testimony, Sharon Harmon, p. 1**
- H - SB 839-A, Proposed -A2 amendments, Counsel, p. 1**
- I - SB 839A, Written testimony, Tim Martinez, p. 3**
- J - SB 839A, Written testimony, Pam Leavitt, p. 1**