

SENATE COMMITTEE ON JUDICIARY

March 16, 1999 Hearing Room 343

3:00 p.m. Tapes 74 - 76

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Aaron Felton, Counsel

Anne Tweedt, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: SB 17 Public Hearing

SB 38 Public Hearing

SB 62 Public Hearing

SB 71 Public Hearing and Work Session

SB 60 Public Hearing and Work Session

SB 82 Public Hearing and 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 74, A		
003	Chair Bryant	Calls the meeting to order at 3:11 p.m. Discusses the committee schedule.
<u>SB 60 AND 82 PUBLIC HEARING</u>		
023	Chair Bryant	Specifies that if there is an estimated financial impact of less than \$50,000, the committee can send a measure directly to the floor. If the estimated impact is more than \$50,000 it must be sent to Ways and Means.
034	Kingsley Click	State Court Administrator's Office SB 60 allows the use of family court departments of circuit courts for probate matters. Indicates there is a -1 amendment to SB 60.
038	Alice Phalan	Appropriate Dispute Resolution Advisor, Judicial Department Testifies and submits written testimony in support of SB 60 (EXHIBIT A). Discusses the n1 amendment and the three issues the amendment is meant to clarify (EXHIBIT B). Indicates SB 408 will address the adoption records language that is removed by this amendment.
073	Click	These bills will be implemented through the state court budget package and will be funded through the budget request being heard by Ways and Means. If we have the enabling legislation then, subject to available funding, we can move in that direction.
<u>SB 60 WORK SESSION</u>		
102	Sen. Courtney	MOTION: Moves to ADOPT SB 60-1 amendments dated 3/4/99.
		VOTE: 5-0 EXCUSED: 2 - Brown, Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
105	Sen. Courtney	MOTION: Moves SB 60 to the floor with a DO PASS AS AMENDED recommendation.

		VOTE: 5-0 EXCUSED: 2 - Brown, Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
<u>SB 82 PUBLIC HEARING</u>		
116	Maureen McKnight	Oregon Family Law Legal Services Commission Testifies and submits written testimony in support of SB 82 (EXHIBIT C). Explains that the ñ1 amendment addresses a language change requested by the Child Support Enforcement Administration (EXHIBIT D).
132	Kingsley Click	State Court Administratorís Office Testifies in support of SB 82. Indicates that the funding appears in the State Court budget that is heard by the Ways and Means Committee as did SB 60.
<u>SB 82 WORK SESSION</u>		
150	Sen. Courtney	MOTION: Moves to ADOPT SB 82-1 amendments dated 3/4/99.
		VOTE: 5-0 EXCUSED: 2 - Brown, Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
154	Sen. Courtney	MOTION: Moves SB 82 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 EXCUSED: 2 - Brown, Nelson

	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. COURTNEY will lead discussion on the floor.</p>
186	Kevin Walling	<p>Intern, Senate Judiciary Committee</p> <p>SB 71 requires appointment of interpreters for parties to a juvenile proceeding, including parent or guardian of the child, if needed.</p>
<u>SB 71 PUBLIC HEARING</u>		
195	Wallace Carson	<p>Chief Justice, Oregon Supreme Court</p> <p>Discusses the history and composition of the Equal Access to Justice Committee and testifies in support of four bills that are the result of this Committee's deliberations and are on the agenda today (EXHIBIT E).</p>
283	Chair Bryant	Is it common that an interpreter appointed for a juvenile will also assist the parents in understanding the process?
292	Justice Carson	I'm not familiar with how they do this now.
307	Sen. Avel Gordley	<p>State Senator, District 10</p> <p>Thanks Chief Justice Carson and discusses the work done by the Equal Access to Justice Committee and indicates that Oregon is a model for addressing these issues.</p>
334	Dick Baldwin	<p>Chair, Equal Access to Justice Committee</p> <p>Testifies and submits written testimony in support of SB 71 (EXHIBIT F). SB 71 requires the appointment of a court interpreter for certain parties in a juvenile court proceeding.</p>
388	Donna Slepak	<p>Chair, Santiago Ventura Defense Group</p> <p>Testifies and submits written testimony in support of SB 71 (EXHIBIT G). Discusses the impossibility of holding a fair trial when the witnesses, counsel and the charged party could not communicate. Supports legislation to require translation into a language the participants understand.</p>
Tape 75, A		
015	Slepak	Continues testimony regarding different language problems. Mixtec is a language completely unrelated to Spanish and the only interpreter provided at

		Santiago Ventura's trial was a Spanish interpreter. In addition there are several different dialects in Mixtec. Santiago Ventura was convicted without understanding what was being said.
092	Chair Bryant	Was he a juvenile?
094	Slepak	He was eighteen.
095	Chair Bryant	There was a court appointed interpreter who interpreted in Spanish. Neither the judge or the defense attorney recognized the problem. This bill doesn't address the competency of the interpreter. Discusses the certification of interpreters. Santiago Ventura trial was in 1986 and a great deal has changed since then.
152	Santiago Ventura	Mixtec native, convicted of murder in 1986 Discusses his arrest and trial in Clackamas County and the language difficulties which resulted in his conviction.
204	Sen. Tarno	How many different dialects of Spanish do we have in Oregon?
206	Ventura	At least 16 Mixtec dialects.
216	Slepak	Mixtec is not related to Spanish.
227	Ventura	Discusses an acquaintance who was in a mental hospital because he couldn't speak a language anyone understood.
240	Augustine Vega	Mixtec Native Discusses Mixtec culture and the economic circumstances that bring them to the United States.
313	Terry Leggett	Judge, Marion County The problem that we have in juvenile court is parents who can't understand the judge or the attorneys. Several other languages that have interpretation problems include Russian, Vietnamese, and the deaf. When the children speak English and the parents don't, the balance of power has shifted. The children have more power than the parents.
325	Chair Bryant	Does the interpreter currently help the parents as well as the juvenile?
329	Judge Leggett	If the youth has an interpreter then the interpreter will help the parents. The

		problem addressed by this bill is parents who don't understand English but their children do. The juvenile doesn't have an interpreter and the parents have to rely on their child to interpret for them. This doesn't work out very well.
398	Kathie Osborn	Juvenile Rights Project Testifies in support of SB 71. Supports Judge Leggert's experience with non-English speaking parents.
Tape 74, B		
012	Chair Bryant	Makes the suggestion that cost savings can be realized when communication with the parents is resolved and this should be noted to Ways and Means. These savings could occur in shortened court time and less incarceration time.
027	Marco Benavides	Oregon Youth Authority, Office of Minority Services Testifies in support of SB 71 and SB 38. Discusses the language difficulties in juvenile justice. Indicates that this is a nationwide problem.
078	Juan Ortegon	Oregon Commission on Hispanic Affairs Testifies in support of SB 71 and SB 38.
130	Chair Bryant	Asks how the court operations costs in the fiscal statement were established.
138	Kingsley Click	State Court Administrator's Office Indicates the amount is for the clerk's time in processing the request, billing and so on.
151	Sen. Brown	Discussed her experience in representing juveniles whose families have difficulty with English.
<u>SB 71 WORK SESSION</u>		
172	Sen. Courtney	MOTION: Moves SB 71 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.
		VOTE: 7-0

	Chair Bryant	Hearing no objection, declares the motion CARRIED.
<u>SB 38 PUBLIC HEARING</u>		
185	Dick Baldwin	<p>Chair, Access to Justice for All Committee</p> <p>Testifies and submits written testimony in support of SB 38 (EXHIBIT I). Indicates that SB 38 has a very high priority with the Access to Justice Committee, as does SB 71.</p>
197	Sen. Gordly	<p>Testifies in support of the ñ1 amendments (EXHIBIT J). The amendment corrects technical errors in the bill as it was originally drafted.</p>
271	Dave Cook	<p>Director, Department of Corrections (DOC)</p> <p>Submits written testimony and testifies in support of SB 38 (EXHIBIT K). Indicates that the DOC has used inmates to interpret in the past, but no longer does that for the same reasons the juvenile court is uncomfortable with juveniles interpreting for their parents. The DOC has been using the AT&T service, which is quite expensive, but will be using the list established by the State Court Administrator should SB 38 be approved. Indicates they need interpretive services for about a dozen disciplinary hearings each month.</p>
309	Chair Bryant	<p>How do you use an AT&T interpreter? How can you be sure the interpreter would be qualified under Oregon law?</p>
313	Cook	<p>Discusses difficulties of ensuring they are qualified if not certified by Oregon law.</p>
346	Sen. Courtney	<p>Discusses the need for interpreters for languages other than Spanish and indicates his court experience with a Russian speaking defendant.</p>
367	Cook	<p>Indicates he continues to learn about the issues involved and the need for interpreters.</p>
414	Vance Day	<p>Attorney</p> <p>Testifies in support of SB 38, with changes. Indicates there are a variety of dialects and languages that need to be covered. Discusses the ability of the administrative law judge to determine whether an interpreter is doing an adequate job. Indicates that the administrative law judge is unable to select interpreters under SB 38. The responsibility for determining the adequacy of the interpreter rests with the agency, not with the judge. Believes the authority should be given to the administrative law judge.</p>
Tape 75, B		

053	Terri Myzak	Administrative Law Judge, Workman's Compensation Board Indicates she is testifying as a private citizen, not representing her agency. Testifies in support of SB 38, with changes. Administrative proceedings need to have interpreters that have the same expertise as those in the courts. States her experience indicates that the administrative law judge needs to be able to supervise the interpreter in the same way that the circuit court judges do. Discusses her suggestion for amendments to clarify this issue (EXHIBIT L).
194	Sen. Courtney	Do you support the ñ1 amendments?
200	Myzak	Yes, in conjunction with the written material I have provided. It may be helpful to delete the references to ORS Chapter 45. Leaving it in may indicate that a bureaucrat in my agency has the same power over interpreters as I do as an administrative law judge.
208	Chair Bryant	But, as an administrative law judge you can refuse to accept an interpreter.
209	Myzak	No, I can't.
211	Chair Bryant	Under the ñ1 amendments you could.
213	Myzak	If the ñ1 amendment language effectuates that change, then yes.
222	Sen. Qutub	On line 6 of page 2 of the ñ1 amendments, it says that the agency is to appoint a qualified interpreter in an adjudicative hearing, but on line 4 of page 2, the court is to appoint a qualified interpreter. Administrative law judges and court judges are treated differently in this bill.
231	Myzak	This poses a problem. We could use "an officer presiding at an adjudicative hearing" instead of "agency". HB 2455 has language that covers this well.
262	Sen. Gordly	Indicates she thinks this conflict can be taken care of easily.
277	Myzak	Discusses language to be used for changes.
289	Chair Bryant	Closes public hearing on SB 38 and opens public hearing on SB 17 and SB 62.
<u>SB 17 AND SB 62 PUBLIC HEARING</u>		
294	Intern Walling	Indicates that SB 17 modifies the mileage rate for jurors in circuit court from 8 cents to no less than 10 cents a mile and establishes the possibility of compensation for lodging and dependent care. SB 62 establishes fees for jurors other than the circuit courts. These bills were intended to address the issue of equal access to justice.

321	Chair Bryant	We have looked at similar bills in the past and the cost has been the problem.
326	Sen. Avel Gordly	State Senator, District 10 Asks that SB 17 and SB 62 be sent to Ways and Means, even if success is not assured. States that these bills will relieve some of the hardship suffered by the poorer of our citizens. Reimbursement rates for mileage have not been raised since 1981. The Oregon State Bar supports these bills.
374	Chair Bryant	Suggests they might want to reconsider lodging expenses since that would be adding a new category for reimbursement.
392	Sen. Brown	Where do we stand in relationship to other states?
400	Kingsley Click	State Court Administrator's Office I believe we are in the lower quarter of the states regarding reimbursement. Discusses relative reimbursement.
435	John Geil	Attorney, Multnomah County Bar Association Testifies in support of SB 17 and SB 62. He chaired the subcommittee five years ago that looked at the representative nature of the jury pool. Discusses the results of the study, particularly the results that illuminated the reasons that lower economic groups might be under represented. Relates these results to the need for SB 17 and SB 62.
Tape 76, A		
014	Geil	Continues to discuss the need for an increase in juror fees.
062	Sen. Brown	Discusses jury duty in Multnomah County.
076	Chair Bryant	Discusses jury duty in Deschutes County.
095	Kingsley Click	State Court Administrator's Office Testifies and submits written testimony in support of SB 17 and SB 62 (EXHIBIT M). Discusses jury duty in Marion County. The changes made did significantly increase citizen satisfaction and resulted in a demographically more representative jury pool.
130	Chair Bryant	Discusses the possibility of tying the per diem to federal court rate. Indicates that it would be a good idea to remove the possibility of reimbursement for lodging.

138	Sen. Brown	Discusses fiscal impact of SB 38 and SB 71.
159	Sen. Gordly	Appreciates the hearing and suggestions on SB 17 and SB 62.
166	Chair Bryant	Adjourns meeting at 5:15 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ SB 60, written testimony dated March 16, 1999, Alice Phalan, 2 pp

B ñ SB 60, -1 amendments (LC 1115) dated 3/4/99, 3 pp

C ñ SB 82, written testimony dated March 16, 1999, Maureen McKnight, 1 pp

D ñ SB 82, -1 amendments (LC 1115-1) dated 3/4/99, 1 pp

E ñ SB 71, mission and history, Access to Justice for All Committee, 1 pp

F ñ SB 71, written testimony dated March 16, 1999, Richard C. Baldwin, 2 pp

G ñ SB 71, written testimony dated March 16, 1999, Donna Grund Slepach, 3 pp

H ñ SB 38, written testimony dated March 16, 1999, Gaelle Snell, 1 pp

I ñ SB 38, written testimony dated March 16, 1999, Richard C Baldwin, 22 pp

J ñ SB 38, -1 amendments (LC 1797) dated 3/16/99, 7 pp

K ñ SB 38, written testimony, Dave Cook, 2 pp

L ñ SB 38, draft amendments, Terri Muzak, 2 pp

M ñ SB 17 and SB 62, written testimony dated March 16, 1999, Kingsley Click, 3 pp