

**SENATE COMMITTEE ON JUDICIARY**

**April 27, 1999 Hearing Room 343**

**3:00 p.m. Tapes 150-151**

**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 76 ñ Work Session**

**SB 379 ñ Work Session**

**SB 397 ñ Work Session**

**SB 795 ñ Work Session**

**SB 888 ñ Work Session**

**SB 916 ñ Work Session**

**SB 1157 ñ Work Session**

**HB 2481 ñ Work Session**

TAPE/#	Speaker	Comments
<b>Tape 150, A</b>		
003	Chair Bryant	Calls meeting to order at 3:10 p.m.
<b><u>SB 76 WORK SESSION</u></b>		
009	Counsel Felton	SB 76 modifies provisions relating to the consolidation of matters in juvenile court. The ñ3 amendments address the consolidation of a juvenile case with a custody matter in front of the juvenile court and specify that the juvenile case should be heard prior the domestic relations matter ( <b>EXHIBIT A</b> ).
020	Sen. Brown	The ñ3 amendments are a product of a work group through the Oregon Law Commission and included many interested parties.
025	Sen. Brown	<b>MOTION: Moves to ADOPT SB 76-3 amendments dated 4/26/99.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Burdick</b>
		<b>Chair Bryant</b> <b>Hearing no objection, declares the motion CARRIED.</b>
027	Sen. Brown	<b>MOTION: Moves SB 76 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Burdick</b>
		<b>Chair Bryant</b> <b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. BROWN will lead discussion on the floor.</b>

**SB 888 WORK SESSION**

037	Counsel Tweedt	As originally drafted SB 888 excludes Oregon Department of Transportation records not pertaining to motor vehicles from the prohibitions put in place due to federal legislation. The ñ1 amendments specify that manufactured housing records are not motor vehicle records in order that county assessors may disclose this information in their property records ( <b>EXHIBIT B</b> ).
063	Sen. Courtney	<b>MOTION: Moves to ADOPT SB 888-1 amendments dated 4/26/99.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Burdick</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
066	Sen. Courtney	<b>MOTION: Moves SB 888 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. COURTNEY will lead discussion on the floor.</b>
<b><u>SB 1157 WORK SESSION</u></b>		
069	Michael Gunn	<b>Attorney, Newburg, Oregon</b>  Testifies in support of SB 1157 that would increase the statutory fee limit on residential foreclosure from \$550 to \$1000.
095	Chair Bryant	Explains that this amount has remained the same for over ten years and it needs to be updated.
106	Sen. Bryant	<b>MOTION: Moves SB 1157 to the floor with a DO PASS recommendation.</b>

		<b>VOTE: 7-0</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
<b><u>HB 2481 WORK SESSION</u></b>		
115	Counsel Tweedt	HB 2481 as drafted would have repealed the provision that the Court of Appeals has to schedule oral argument within 42 days of an appeal of a decision by the Land Use Board of Appeals. The ñ2 amendments  extend 42 days to 49 days and include a provision for further extension if certain circumstances are met <b>(EXHIBIT C)</b> .
147	Chair Bryant	Indicates that the ñ2 amendments make sense but still put constraints on the court to proceed in an expeditious fashion.
164	Sen. Courtney	<b>MOTION: Moves to ADOPT HB 2481-2 amendments dated 4/20/99.</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Brown</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
165	Sen. Courtney	<b>MOTION: Moves HB 2481 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	<b>Chair</b>	<b>Hearing no objection, declares the motion CARRIED.</b>

		<b>SEN. BURDICK will lead discussion on the floor.</b>
<b><u>SB 379 WORK SESSION</u></b>		
178	Counsel Tweedt	SB 379 as originally drafted would allow the Attorney General to enter into a civil compromise when considering criminal prosecution under anti-trust laws. The -1 amendments specify that the Attorney General may receive and respond to an offer of civil compromise and specifies that the measure applies to investigations not enforcement proceedings ( <b>EXHIBIT D</b> ).
198	Chair Bryant	The original concerns were that the Attorney General would be in violation of an Oregon State Bar ethical rule should a civil compromise be offered.
202	Sen. Courtney	<b>MOTION: Moves to ADOPT SB 379-1 amendments dated 3/25/99.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Brown</b>
		<b>Chair Bryant</b> <b>Hearing no objection, declares the motion CARRIED.</b>
206	Sen. Courtney	<b>MOTION: Moves SB 379 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
		<b>Chair Bryant</b> <b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. COURTNEY will lead discussion on the floor.</b>
<b><u>SB 795 WORK SESSION</u></b>		
212	Chair Bryant	Discusses the previous hearing on SB 795 that creates a schedule of progressive civil penalties and remedial measures for county having a dog control program. There was a question as to whether the penalties were mandatory or optional for counties and the ñ2 amendments make it mandatory ( <b>EXHIBIT E</b> ).

231	Counsel Tweedt	Indicates that the animal shelter has visited every other possible avenue for a land use exception and it appears that legislation is the only option left in the county counsel's opinion. Indicates the ñ1 amendments specify that an animal shelter is an acceptable non-farm use ( <b>EXHIBIT F</b> ).
239	Chair Bryant	Explains that the ñ3 amendments would sunset the provision that an animal shelter would be an acceptable non-farm use after two years ( <b>EXHIBIT G</b> ).
262	Sen. Courtney	What are the ñ1 and ñ3 amendments going to do to this bill?
263	Chair Bryant	The sponsors of the bill do not object to these amendments as long as it doesn't cause a problem in its passage through the House and Senate.
292	Counsel Tweedt	-2 specifies that the schedule of progressive civil penalties and remedial measures for county having dog control programs are mandatory.
320	Sen. Burdick	The ñ2 amendments make the counties follow certain rules?
333	<b>Dave Barrows</b>	<b>Oregon Veterinary Medical Association</b>  The counties retain some discretion and even under the penalties section they have some latitude. The Association of Oregon Counties is neutral on this bill. Indicates that sections 2, 5, and 9 always were intended to be mandatory.
396	Sen. Courtney	Does the Humane Society support the bill?
397	Barrows	They are strongly supportive.
401	Sen. Courtney	Are the Citizens for Humane Animal treatment supportive of the ñ2 amendments?
404	Chair Bryant	Yes, but they don't go far enough for them so they intend to go forward with the initiative on the ballot which is unfortunate.
425	Counsel Tweedt	Discusses the amendments that need to be adopted to make the changes the committee has agreed to.
<b>428</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 795-1 amendments dated 4/5/99.</b>
		<b>VOTE: 4-1-2</b>  <b>AYE: 4 - Courtney, Nelson, Tarno, Bryant</b>  <b>NAY: 1 - Burdick</b>

		<b>EXCUSED: 2 - Brown, Qutub</b>
	<b>Chair Bryant</b>	<b>The motion CARRIES.</b>
<b>434</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 795-2 amendments dated 4/15/99.</b>
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Brown, Qutub</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>439</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 795-3 amendments dated 4/27/99.</b>
<b>442</b>	<b>Counsel Tweedt</b>	The last line on page 7 has been hand-engrossed. Asks Chuck Taylor, the drafter of the amendment, if he made the hand-engrossed changes.
<b>463</b>	<b>Chuck Taylor</b>	<b>Legislative Counsel's Office</b>  Indicates he did not make the change. The hand-engrossed change is incorrect and it should be read as it was originally written.
<b>496</b>	<b>Chair Bryant</b>	The motion is to adopt the 3 amendments as originally drafted.
<b>503</b>		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Brown, Qutub</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>Tape 151, A</b>		

048	Sen. Courtney	<b>MOTION: Moves SB 795 to the floor with a DO PASS AS AMENDED recommendation.</b>
050	Sen. Nelson	Asks if the counties still have discretion.
053	Chair Bryant	In some areas they have discretion and in other areas they don't.
056	Barrows	Under the two amendments there are three provisions that every county that has an animal control program must abide by. Section 2, Section 5, and Section 9 of the bill are mandatory.
		<b>VOTE: 5-1</b>  <b>AYE: 5 - Brown, Courtney, Nelson, Tarno, Bryant</b>  <b>NAY: 1 - Burdick</b>  <b>EXCUSED: 1 - Qutub</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SENATOR BRYANT AND SENATOR YIH will lead discussion on the floor.</b>
<b><u>SB 916 WORK SESSION</u></b>		
093	Counsel Tweedt	As originally drafted, SB 916 creates a partial exemption from the housing impartiality statute for owners who rent rooms or units in owner occupied dwellings providing living quarters for no more than four families. The two amendments have been drafted to address some of the concerns which surfaced at the first hearing ( <b>EXHIBIT I</b> ).
106	Chair Bryant	Discusses the intent of the bill. We would like to exempt the landlord when there is an internal method to travel to the landlord's portion of the dwelling. Indicates the two language doesn't completely cover this.
132	Sen. Burdick	The real test is whether the landlord can securely lock himself away from the tenant. If there is a door which can be locked, and the tenant can't open it, they should not have this exemption.
145	Chair Bryant	My concern is that a lock can be picked.
147	Sen. Burdick	They could do this in a regular apartment building too.



150	Sen. Tarno	I tend to agree with Chair Bryant.
152	Chair Bryant	Discusses the housing shortage for seniors. Asks for feedback from Sen. Nelson.
170	Sen. Nelson	I would tend to draw the line closer to the landlord allowing more discretion.
173	Sen. Courtney	I'm still uncertain of where I am.
187	Chair Bryant	We'll get two definitions drafted and bring it back.
<b><u>SB 397 WORK SESSION</u></b>		
196	Counsel Tweedt	There are no new amendments to this bill.
200	Chair Bryant	Indicates the 2 amendments are from Bureau of Labor and Industries (BOLI) would eliminate limitations on legal arguments that are made by lay representatives. They also would repeal the attorney general's authority to veto the use of agency personnel to present cases in hearings. The 3 amendments only add BOLI to the list of agencies who can use hearings officers ( <b>EXHIBITS J &amp; K</b> ).
212	Counsel Tweedt	Discusses the history of the amendments to this bill.
<b>235</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 397-3 amendments dated 3/22/99.</b>
240	Counsel Tweedt	At the last hearing I believe that Commissioner Jack Roberts indicated that the 3 amendments didn't go far enough for BOLI because it didn't address the limitations on legal arguments by their case presenters.
253	Chair Bryant	Would it be a benefit to BOLI for us to adopt the 3 amendments?
260	<b>Paul Tiffany</b>	<b>Bureau of Labor and Industries (BOLI)</b> It would be what we are presently doing.
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Brown, Qutub</b>
<b>Chair Bryant</b>		<b>Hearing no objection, declares the motion CARRIED.</b>

269	Tiffany	The last time we discussed the ñ2 amendments, BOLI indicated that if the committee wanted to adopt lines 1-9 of those amendments and not the rest, it would be fine with us. This would allow our case presenters to make legal arguments.
280	Chair Bryant	On page two, that would delete lines 8-18 and lines 31-45 of the bill?
290	Counsel Tweedt	They would like to adopt lines 1-9 of the ñ2 amendments.
301	Counsel Tweedt	Discusses how this changes the hand-engrossed bill.
308	<b>Amy Veranth</b>	<b>Assistant Attorney General, Department of Justice</b>  The Attorney General would be opposed to that. Discusses reasons for opposition.
323	Chair Bryant	We need to move the bill. Didn't we delete the emergency clause?
326	Veranth	I don't believe so. The bill was merely to codify some existing provisions in the Attorney General's model rules. Legislative Council felt that agencies may be acting beyond the scope of the current statutes which may create an emergency.
359	Chair Bryant	I don't think that qualifies as an emergency. We can do that conceptually.
394	Sen. Brown	I spoke to the Department of Justice and they were adamantly opposed to the action taken by the ñ2 amendments, so I didn't even bother with the Oregon State Bar.
414	Sen. Burdick	Why did we need the ñ2 amendments?
426	Chair Bryant	We don't, unless we want to provide more flexibility to the lay representatives.
<b>438</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to AMEND SB 397 on page 8, delete "Lines 12-14".</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 ñ Qutub</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>

446	Sen. Courtney	<b>MOTION: Moves SB 397 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Qutub</b>
	Chair	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>BROWN will lead discussion on the floor.</b>
452	Sen. Brown	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BROWN to BE RECORDED as voting AYE on the motions sending SB 379, SB 795, SB 888, SB 1157, and HB 2481 to the floor do pass.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Qutub</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
460	Sen. Burdick	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BURDICK to BE RECORDED as voting AYE on the motions sending SB 1157 and SB 888 to the floor do pass.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Qutub</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
467	Chair Bryant	Adjourns the hearing at 4:15 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

**A ñ SB 76, -3 amendments dated 4/26/99, 2 pp**

**B ñ SB 888, -1 amendments dated 4/20/99, 1 pp**

**C ñ HB 2481, -2 amendments dated 4/20/99, 2 pp**

**D ñ SB 379, -1 amendments dated 3/25/99, 1 pp**

**E ñ SB 795, -2 amendments dated 4/15/99, 1 pp**

**F ñ SB 795, -1 amendments dated 4/5/99, 8 pp**

**G ñ SB 795, -3 amendments dated 4/27/99, 8 pp**

**H ñ SB 795, written testimony, Andrew A Clark, 1 pp**

**I ñ SB 916, -2 amendments dated 4/23/99, 1 pp**

**J ñ SB 397, -2 amendments dated 2/17/99, 1 pp**

**K ñ SB 397, -3 amendments dated 3/22/99, 1 pp**