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SENATE COMMITTEE ON JUDICIARY

April 07, 1999 Hearing Room 343

3:00 PM Tapes 111 - 113

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Anne Tweedt, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: SB 846 - Public Hearing

SB 847 - Public Hearing

SB 1005 - Public Hearing

SB 196 - Public Hearing

SB 711 - Public Hearing and Work Session

SB 1019 - 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 |
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| TAPE 111, SIDE A | | |
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| 004 | Chair Bryant | Calls meeting to order 3:15 PM. |
| <u>SB 846 PUBLIC HEARING</u> | | |
| 015 | Rep. Randy Leonard | State Representative, House District 21 Testifies in support of SB 846 which classifies peer support counseling session information and communication as confidential. |
| 054 | Julie Ann Leonard | Fire and Police Disability and Retirement Fund Testifies and submits written testimony and proposed amendments in support of SB 846. (EXHIBITS A and B) Asserts that confidentiality is vital to an employee assistance program. Relates stories about firefighters in traumatic situations. |
| 223 | Chair Bryant | Criminal activity will not be protected under confidentiality, correct? |
| 242 | Sen. Burdick | Do you currently have an employee assistance program? |
| 245 | J. Leonard | Yes, it is one year old. |
| 255 | Tom Chamberlain | Portland's Firefighters Association Testifies in support of SB 846. Relates story about an 18-year veteran firefighter's suicide. Stresses firefighters' vital need to debrief after traumatic situations. |
| 298 | Robert J. King | Portland Police Officer Testifies and submits written testimony in support of SB 846. (EXHIBIT C) Discusses personal traumatic incident. Asserts the need for a safe environment for firefighters and police to process traumatic incidents. |
| TAPE 112, SIDE A | | |
| 005 | Chamberlain | Continues discussion about a personal traumatic incident. Asserts that an entire community may suffer if officers are chronically stressed. |
| 039 | Sen. Tarno | What is the Portland Police Chief's position on SB 846? |
| 040 | Chamberlain | I think he supports the concept. |
| 045 | Sen. Tarno | Explains that issues of culpability must be addressed after deadly force incidents. Does the counseling process take place before or after the internal |

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| | | investigation? |
| 050 | Chamberlain | Explains that counseling does not supersede or interfere with an internal investigation. |
| 060 | Sen. Tarno | What is the position of the Sheriffs Association and other law enforcement agencies on SB 846? |
| 061 | Chamberlain | I don't know. |
| 064 | Sen. Burdick | Discusses her NE Portland police precinct ride along. Inquires about employee counseling for daily work stress. |
| 071 | Chamberlain | Discusses counseling services available for employees. |
| 097 | Brian DeLashmutt | Oregon Counsel of Police Associations Testifies in support of SB 846. Discusses the origin of SB 846 and states support of including firefighters in the scope of the bill. |
| 109 | Liz Cruthers | Portland Police Officer, Oregon Council of Police Associations Testifies and submits written testimony in support of SB 846. (EXHIBIT D) Discusses a personal traumatic incident. Asserts that ensuring confidentiality in counseling is not an attempt to hide facts. |
| 173 | Bob Livingston | Oregon State Firefighters' Council, Salem Firefighter Testifies in support of SB 846. Relates story about 3 children who died in a Salem fire. Asserts that non-confidential counseling programs are inadequate. |
| 195 | DeLashmutt | Stresses that investigations are independent of employee counseling. |
| 203 | Chair Bryant | Discusses exceptions to the proposed employee confidentiality. |
| 217 | Sen. Tarno | Are "peer reviews" voluntary? |
| 220 | DeLashmutt | Yes. Explains the broad language of SB 846 relating to counseling. |
| 228 | Sen. Tarno | Expresses concern about the legislature setting administrative policy for an agency. |
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| 238 | Sen. Qutub | Why is a debriefing about a traumatic incident injurious to police officers? |
| 247 | Cruthers | Discusses legal liability issues that stem from traumatic incidents. |
| 258 | DeLashmutt | Explains how trauma enlarges incidents and the passage of time clarifies facts. |
| 298 | Lori Brocker | Oregon Newspaper Publishers Association Testifies in opposition to SB 846. Agrees with the bill's purpose. |
| 314 | Les Zaitz | Keizer Times Testifies in opposition to SB 846. Discusses the unintended consequences of protecting materials conveyed during counseling sessions from public scrutiny. |
| 340 | Chair Bryant | Suggests a work group to address the concerns of Mr. Zaitz and Sen. Tarno. |
| 351 | Zaitz | Explains that any oral or written information "conveyed" during a peer session would become protected from public and legal scrutiny. |
| 369 | Chair Bryant | Closes SB 846 Public Hearing. |
| <u>SB 847 PUBLIC HEARING</u> | | |
| 380 | Jeb Bladine | News Register Publishing Co., President Testifies and submits written testimony in opposition of SB 847. (EXHIBIT E) Discusses Oregon Court of Appeals opinions relating to confidential public records. |
| TAPE 111, SIDE B | | |
| 004 | Bladine | Continues discussion about the importance of public scrutiny in police and firefighter incidents. |
| 009 | Les Zaitz | Keizer Times Testifies in opposition to SB 847. Relates story about the questionable conduct and resulting dismissal of police chief. Explains that the failure of the city manager to discipline the police chief emphasizes the need for public scrutiny of top officials. |
| 059 | Brocker | Discusses Oregon Court of Appeals' decisions relating to confidentiality of employee records. |
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| 089 | Sen. Tarno | Are agencies required to maintain employee records? |
| 098 | Counsel Tweedt | Explains that employee records must be kept for 6 months after an employee's termination. |
| 112 | Maria Keltner | League of Oregon Cities, Association of Oregon Counties Testifies and submits written testimony in support of SB 847. (EXHIBIT F) Discusses public disclosure procedure for performance evaluations. |
| 163 | Sen. Courtney | Discusses the incident relating to the city manager's failure to discipline the police chief. Encourages public scrutiny of public officials. |
| 178 | Keltner | Asserts that employee evaluations should be confidential. Explains that the law provides recourse if needed. |
| 208 | Hasina Squires | Special Districts Association of Oregon Testifies in support of SB 847. Distinguishes between public accountability and access to public private evaluations. |
| 260 | Robert Carnahan | Clackamas County, Assistant Fire Chief Testifies and submits written testimony in support of SB 847. (EXHIBIT G) Relates story about a former spouse who sought to discredit a man by disclosing the contents of his performance review. |
| 358 | Sen. Tarno | How would your procedures change if performance reviews were public? |
| 365 | Carnahan | Explains current performance review procedures. |
| 399 | Sen. Tarno | Do colleges write evaluations on teachers? |
| TAPE 112, SIDE B | | |
| 004 | Sen. Courtney | Explains that public employees' work must be open to public scrutiny. |
| 015 | Caryn Tilton | CT Consulting and Associates Testifies in support of SB 847. Discusses the varied, subjective nature of performance reviews. |
| 096 | Bob Livingston | Oregon State Firefighters Council Testifies in support of SB 847. Cites the varied proponents of SB 847. |

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| 105 | Mary Botkin | AFSCME Testifies in support of SB 847. Discusses the history of SB 847. |
| 138 | David McGourty | Former Oregon State Hospital Psychologist Testifies and submits written testimony in support of SB 847. (EXHIBIT H) Discusses former practice as a mental health service provider. Asserts that employees must have access to their records. |
| <u>SB 1005 PUBLIC HEARING</u> | | |
| 266 | Chair Bryant | Closes SB 1005 Public Hearing. |
| <u>SB 196 PUBLIC HEARING</u> | | |
| 275 | Chair Bryant | Closes SB 196 Public Hearing. |
| <u>SB 711 PUBLIC HEARING</u> | | |
| 292 | Phyllis Kirkwood | Oregon Substitute Teachers' Association Testifies and submits written testimony in support of SB 711. (EXHIBITS I and J) Discusses SB 711's amendments referring to collective bargaining. |
| 296 | Sally Sellers | McMinnville Substitute Teacher Testifies in support of SB 711. |
| 329 | Chair Bryant | Closes SB 711 Public Hearing. |
| <u>SB 711 WORK SESSION</u> | | |
| 336 | Counsel Tweedt | Discusses error in SB 711's amendments. |
| 348 | Sen. Qutub | MOTION: Moves to ADOPT SB 711-1 amendments dated 04/02/99. |
| | | VOTE: 5-0-2 EXCUSED: 2 - Sen. Burdick, Sen. Courtney |
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| | Chair Bryant | Hearing no objection, declares the motion CARRIED. SEN. QUTUB will lead discussion on the floor. |
| 350 | Sen. Qutub | MOTION: Moves SB 711 to the floor with a DO PASS AS AMENDED recommendation. |
| | | VOTE: 5-0-2 EXCUSED: 2 - Sen. Burdick, Sen. Courtney |
| | Chair Bryant | Hearing no objection, declares the motion CARRIED. SEN. QUTUB will lead discussion on the floor. |
| 330 | Chair Bryant | Closes SB 711 Work Session. |
| <u>SB 1019 PUBLIC HEARING</u> | | |
| 346 | John Powell | State Farm Insurance Testifies in support of SB 1019. Explains how SB 1019 creates a self-audit mechanism similar to that of banks. Proposes changes to the bill. |
| 411 | Sen. Brown | What is the position of the Department of Public Consumer and Business Services on SB 1019? |
| 412 | John Powell | They have some concerns with SB 1019, but we can reach a consensus on those concerns. |
| TAPE 113, SIDE A | | |
| 013 | Chair Bryant | Closes SB 1019 Public Hearing. |
| 041 | Chair Bryant | MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BURDICK to BE RECORDED as voting AYE on the SB 711 DO PASS AS AMENDED recommendation. |
| | | VOTE: 6-0-1 |

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| | | EXCUSED: 1 - Sen. Courtney |
| | Chair Bryant | Hearing no objection, declares the motion CARRIED. |
| 042 | Chair Bryant | Closes hearing at 5:15 PM. |

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

- A. Testimony in support of SB 846, Julie Ann Leonard, 6pp**
- B. SB 846 ñ4 amendments, Anne Tweedt, 1p**
- C. Testimony in support of SB 846, Robert J. King, 2pp**
- D. Testimony in support of SB 846, Elizabeth Cruthers, 2pp**
- E. Testimony in opposition to SB 846, Jeb Bladine, 15pp**
- F. Testimony in support of SB 847, Maria Keltner, 1p**
- G. Testimony in support of SB 847, Robert Carnahan, 3pp**
- H. Testimony in support of SB 847, David McGourty, 1p**
- I. Testimony in support of SB 711, Phyllis Kirkwood, 1p**
- J. SB 711 ñ1 amendments, Anne Tweedt, 1p**
- K. Testimony in support of SB 847, Janice Deardorff, 1p**