

**SENATE COMMITTEE ON JUDICIARY**

**June 11, 1999 Hearing Room C**

**2:00 PM Tapes 229 - 230**

**MEMBERS PRESENT: Sen. Bryant, Chair**

**Sen. Courtney, Vice-Chair**

**Sen. Brown**

**Sen. Duncan**

**Sen. Nelson**

**Sen. Tarno**

**MEMBER EXCUSED: Sen. Burdick**

**STAFF PRESENT: Bill Taylor, Deputy Counsel**

**John Horton, Counsel**

**Kathy Courtney, Administrative Support**

**MEASURE/ISSUES HEARD: SB 65 Work Session**

**SB 299 Work Session**

**SB 723 Work Session**

**HB 2731A Work Session**

**HB 2436A Work Session**

**HB 3158A Work Session**

**HB 2807A Public Hearing, Work Session**

**HB 3376A Work Session**

**HB 3084A Work Session**

**HB 2096A Work Session**

**HB 3051A Public Hearing Work Session**

**HB 2396A Public Hearing, Work Session**

TAPE/#	Speaker	Comments
<b>TAPE 229, SIDE A</b>		
009	Chair Bryant	Calls hearing to order at 2:10 PM.
<b><u>SB 65 WORK SESSION</u></b>		
012	Counsel Taylor	SB 65 increases the number of circuit court judges. Discusses SB 65 -3 and -4 amendments relating to dangerous weapons provisions. <b>(EXHIBITS A and B)</b>
028	Chair Bryant	<b>MOTION: Moves to ADOPT SB 65 -4 amendments dated 06/11/99.</b>
		<b>VOTE: 5-0-2</b>  <b>EXCUSED: 2 - Sen. Brown, Sen. Burdick</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
029	Chair Bryant	<b>MOTION: Moves SB 65 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 5-0-2</b>  <b>EXCUSED: 2 - Sen. Brown, Sen. Burdick</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
033	Chair Bryant	Closes SB 65 Work Session.
<b><u>SB 299 WORK SESSION</u></b>		
034	Counsel Taylor	SB 299 allows the court to consider specific factors in adjudication procedures relating to water right claims. Discusses the SB 299 ñ5 amendments which replace the original bill. <b>(EXHIBIT C)</b>

066	Douglas DuPriest	<p><b>Hutchinson Anderson Cox, Coons &amp; DuPriest PC, Attorney at Law</b></p> <p>Testifies and submits written testimony in opposition to SB 299. <b>(EXHIBITS D)</b> Discusses how SB 299 authorizes a right to the full extent of a claim. Asserts that it is far easier to file a claim than to determine a right. The law should not allow the taking of an existing property right until the claim right is established.</p>
165	Chair Bryant	Establishing a water claim right could take over 20 years.
168	DuPriest	That is true, but does it make sense to approve a claim without proof? Discusses other alternatives to taking a water right claim before it is established.
180	Chair Bryant	Wouldn't you agree that the City of Springfield has a pre-1909 claim?
181	DuPriest	I agree that in the late 1800s private parties diverted waters, but I don't know the nature of the water use. Asserts that the City of Springfield has options other than establishing a law to authorize water diversion.
197	Chair Bryant	You can contest your assertion in the condemnation hearing.
232	Sen. Duncan	Chair Bryant, would you clarify the issue or authorization and the condemnation hearing, please?
238	Chair Bryant	Explains the effect of SB 299 for the City of Springfield and the subsequent court process for condemnation of land.
283	Martha Pagel	<p><b>Director, Water Resources Department</b></p> <p>Testifies and submits written testimony and proposed amendments in support of SB 299. <b>(EXHIBIT E)</b> Discusses the procedures for conducting an injury evaluation for a water rights claim.</p>
356	Sen. Nelson	Before 1909, water rights were not adjudicated?
359	Chair Bryant	Discusses the history and future of Oregon water law related to water rights and adjudication. Discusses the Deschutes basin determination.
389	Chair Bryant	<b>MOTION: Moves to ADOPT SB 299-5 amendments dated 05/26/99.</b>
		<p><b>VOTE: 6-0-1</b></p> <p><b>EXCUSED: 1 - Sen. Burdick</b></p>

	Chair Bryant	Hearing no objection, declares the motion <b>CARRIED</b> .
393	Chair Bryant	<b>MOTION: Moves SB 299 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-1-1</b> <b>AYE: 5</b> ñ Brown, Courtney, Duncan, Nelson, Bryant <b>NAY: 1</b> ñ Tarno <b>EXCUSED: 1</b> ñ Burdick
		Chair Bryant The motion <b>CARRIES</b> .  <b>SEN. BEYER will lead discussion on the floor.</b>
397	Sen. Duncan	Discusses Roger and Kathy Vinyardís litigation involving water rights.
<b><u>SB 723 WORK SESSION</u></b>		
422	Counsel Taylor	SB 723 modifies service retirement allowance payable to persons who establish membership in the Public Employees Retirement System (PERS) on or after January 1, 2000. Discusses the SB 723 ñ1 amendments. <b>(EXHIBIT F)</b>
<b>TAPE 230, SIDE A</b>		
005	Sen. Brown	Discusses the legislative history of PERS. Asserts that the Legislature has amended PERS enough.
014	Sen. Courtney	Why amend PERS? What is the problem with the current system?
023	Chair Bryant	Discusses the need for diversity on the PERS governing board.
032	Sen. Brown	Isn't PERS for the benefit of its members? If the system works, why should we amend it?
035	Chair Bryant	<b>MOTION: Moves to ADOPT SB 723-1 amendments dated 03/19/99.</b>

050	Chair Bryant	<p><b>VOTE: 4-2-1</b></p> <p><b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b></p> <p><b>NAY: 2 - Brown, Courtney</b></p> <p><b>EXCUSED: 1 - Burdick</b></p>
	Chair Bryant	The motion <b>CARRIES</b> .
056	Chair Bryant	<b>MOTION: Moves SB 723 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<p><b>VOTE: 4-2-1</b></p> <p><b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b></p> <p><b>NAY: 2 - Brown, Courtney</b></p> <p><b>EXCUSED: 1 - Burdick</b></p>
	Chair Bryant	<p>The motion <b>CARRIES</b>.</p> <p><b>SEN. DERFLER will lead discussion on the floor.</b></p>
095	Chair Bryant	Closes SB 723 Work Session.
<b><u>HB 2731A WORK SESSION</u></b>		
097	Chair Bryant	HB 2731A prohibits specified persons from recording or reporting depositions in civil actions.
158	Carl Meyers	<p><b>Oregon Court Reporters Association</b></p> <p>Discusses the HB 2731A ñA10 amendments relating to standard charges for reporting services. <b>(EXHIBIT G)</b></p>
190	Paul Romain	<p><b>AmeriNet</b></p> <p>Explains that reporters should negotiate contracts on a per assignment basis, not per case. Asserts that fee disclosure is acceptable, but not a mandated fee</p>

		structure.
230	Chair Bryant	Would you oppose a fee structure for a series of depositions?
243	Romain	No, because fees should be negotiated between the parties.
255	Sen. Brown	Fees can be used to bestow favoritism, right?
266	Romaine	Yes, but all parties can negotiate for a better rate.
282	Chair Bryant	Suggests setting reporter rates for cases within a time frame.
290	Meyers	Discusses the timeline for the disposition and discovery of case information.
325	Romain	If we can't mandate the disposition, why mandate a specific fee?
364	Chair Bryant	<b>MOTION: Moves to AMEND HB 2731A ñA10 on page 1, in line 8, after "proceedings" insert "for a period of 180 days from the date of the first deposition."</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Burdick, Sen. Tarno</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
370	Chair Bryant	<b>MOTION: Moves to ADOPT HB 2731A-A10 amendments dated 06/04/99.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Burdick, Sen. Tarno</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
373	Chair Bryant	<b>MOTION: Moves HB 2731A to the floor with a DO PASS AS AMENDED recommendation.</b>

		<b>VOTE: 5-0-2</b>  <b>EXCUSED: 2 - Sen. Burdick, Sen. Tarno</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. COURTNEY will lead discussion on the floor.</b>
390	Chair Bryant	Closes HB 2731A Work Session.
<b><u>HB 2436A WORK SESSION</u></b>		
391	Chair Bryant	Discusses HB 2436A which relates to the transferal of a defendant from a correctional facility to the state hospital. Explains that HB 2436A ñA8 amendments. <b>(EXHIBIT H)</b>
<b>TAPE 229, SIDE B</b>		
001	Chair Bryant	Continues discussion of the HB 2436A ñA8 amendments. Proposes that HB 2436A not be a mandatory requirement.
015	Counsel Horton	Discusses the legislative history of HB 2436A.
025	Chair Bryant	Does a judge have authority under current law relating to transfer a defendant to the state hospital?
027	Horton	Yes, but lack of resources often precludes prompt transfer.
035	Chair Bryant	Closes HB 2436A Public Hearing.
<b><u>HB 3158A WORK SESSION</u></b>		
066	Rep. Vic Backlund	<b>State Representative, House District 33</b>  Testifies and submits proposed amendments in support of HB 3158A which requires notification of a youth offenderis transfer into a school district. <b>(EXHIBIT I)</b> Discusses the legislative history of HB 3158A. Explains the necessity of a timely flow of information.

100	Sen. Courtney	MOTION: Moves to ADOPT HB 3158A-A4 amendments dated 06/04/99.
		<p>VOTE: 4-0-3</p> <p>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</p>
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
103	Sen. Courtney	MOTION: Moves HB 3158A to the floor with a DO PASS AS AMENDED recommendation.
		<p>VOTE: 4-0-3</p> <p>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</p>
	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. COURTNEY will lead discussion on the floor.</p>
<b><u>HB 2807A PUBLIC HEARING</u></b>		
115	Rep. Leslie Lewis	<p>State Representative, House District 29</p> <p>Testifies in support of HB 2807A which relates to sexual predator notification. Discusses HB 2807A legislative history.</p>
161	Kent Zwicker	<p>Oregon State Police, Criminal Division</p> <p>Testifies and submits written testimony in support of HB 2807A. <b>(EXHIBIT J)</b> Discusses SB 740 which permits public access to sex offender information.</p>
180	Chair Bryant	Closes HB 2807A Public Hearing.
<b><u>HB 2807A WORK SESSION</u></b>		



184	Sen. Courtney	MOTION: Moves to ADOPT HB 2807A-A3 amendments dated 06/10/99.
		VOTE: 4-0-3 EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
186	Sen. Courtney	MOTION: Moves HB 2807A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED.  SEN. GEORGE will lead discussion on the floor.
195	Chair Bryant	Closes HB 2807A Work Session.
<b><u>HB 3376A WORK SESSION</u></b>		
214	Sen. Duncan	MOTION: Moves to ADOPT HB 3376A-A2 amendments dated 06/01/99.
		VOTE: 4-0-3 EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED.

217	Sen. Duncan	<b>MOTION: Moves HB 3376A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0-3</b> <b>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. DUNCAN will lead discussion on the floor.</b>
220	Chair Bryant	Closes HB 3376A Work Session.
<b><u>HB 3084A WORK SESSION</u></b>		
226	Counsel Taylor	HB 3084A allows conditional discharge of first misdemeanor offenses excluding driving while under the influence of intoxicant offenses. Discusses HB 3084A A4 amendments. <b>(EXHIBIT K)</b>
244	Sen. Courtney	<b>MOTION: Moves to ADOPT HB 3084A-A4 amendments dated 06/00/99.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
246	Sen. Courtney	<b>MOTION: Moves HB 3084A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>

		<b>SEN. BROWN will lead discussion on the floor.</b>
250	Chair Bryant	Closes HB 3084A Work Session.
<b><u>HB 2096A WORK SESSION</u></b>		
252	Chair Bryant	HB 2096A relates to disclosure of sealed police investigation reports to certain licensing agency officials. Discusses the HB 2096A ñA4 amendments. <b>(EXHIBIT L)</b>
273	Ingrid Swenson	<b>Criminal Defense Lawyers Association</b> Testifies in opposition to HB 2096A. Secures the HB 2096A ñA4 amendments for prompt review.
282	Chair Bryant	Closes HB 2096A Work Session.
<b><u>HB 3051A PUBLIC HEARING</u></b>		
288	Chair Bryant	Closes HB 3051A Public Hearing.
<b><u>HB 3051A WORK SESSION</u></b>		
289	Counsel Horton	HB 3051A relates to the postponement of an Implied Consent hearing. Discusses the HB 3051A ñA2, ñA3, and conceptual amendments. <b>(EXHIBITS M and N)</b>
307	Sen. Tarno	<b>MOTION: Moves to ADOPT HB 3051A-A3 amendments dated 06/00/99.</b>
		<b>VOTE: 4-0-3</b> <b>EXCUSED: 3 ñ Sen. Brown, Sen. Burdick, Sen. Nelson</b>
Chair Bryant		<b>Hearing no objection, declares the motion CARRIED.</b>
310	Sen. Tarno	<b>MOTION: Moves HB 3051A to the floor with a DO PASS AS AMENDED recommendation.</b>

		<b>VOTE: 4-0-3</b>  <b>EXCUSED: 3 ñ Sen. Brown, Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
315	Chair Bryant	Closes HB 3051A Work Session.
<b><u>HB 2396A PUBLIC HEARING</u></b>		
330	Counsel Horton	HB 2396A allows a presiding judge to exclude Aggravated Murder from consideration to waive a youth to adult court. Discusses HB 2396A ñA2 and proposes conceptual amendments to HB 2396A. <b>(EXHIBIT O)</b>
335	Chair Bryant	Closes HB 2396A Public Hearing.
<b><u>HB 2396A WORK SESSION</u></b>		
340	Chair Bryant	<b>MOTION: Moves to AMEND HB 2396A ñA2 on page 3, in line 1, after "under," insert "ORS 137.707(5)(b)(A)".</b>
		<b>VOTE: 4-0-3</b>  <b>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
342	Chair Bryant	<b>MOTION: Moves to ADOPT HB 2396A-A2 amendments dated 06/00/99.</b>
		<b>VOTE: 4-0-3</b>  <b>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</b>

	Chair Bryant	Hearing no objection, declares the motion <b>CARRIED</b> .
344	Chair Bryant	<b>MOTION: Moves HB 2396A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0-3</b> <b>EXCUSED: 3 - Sen. Brown, Sen. Burdick, Sen. Nelson</b>
	Chair Bryant	Hearing no objection, declares the motion <b>CARRIED</b> .  <b>SEN. TARNO will lead discussion on the floor.</b>
353	Chair Bryant	Closes HB 2396A Work Session.
354	Chair Bryant	Enters letter from Peter Glazer, Dept of Transportation relating to HB 3051A into the public record. <b>(EXHIBIT O)</b>
445	Chair Bryant	Adjourns meeting at 3:30 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

## **EXHIBIT SUMMARY**

- A. SB 65-3 proposed amendments, Bill Taylor, 41pp
- B. SB 65-4 proposed amendments, Bill Taylor, 38pp
- C. SB 299-5 proposed amendments, Bill Taylor, 5pp
- D. Testimony in opposition of SB 299, Douglas DuPriest, 3pp
- E. Testimony in support of SB 299, Martha Pagel, 4pp
- F. SB 723-1 proposed amendments, Bill Taylor, 3pp
- G. HB 2731A-A10 proposed amendments, Bill Taylor, 1p
- H. HB 2435-A8 proposed amendments, Bill Taylor, 5pp
- I. HB 3158A-A4 proposed amendments, Bill Taylor, 2pp
- J. Testimony in support of HB 2807A Kent Zwicker, 3pp
- K. HB 3084A-A4 proposed amendments, Bill Taylor, 1p
- L. HB 2096A-A4 proposed amendments, Bill Taylor, 1p
- M. HB 3051A-A2 proposed amendments, Bill Taylor, 1p
- N. HB 3051A-A3 proposed amendments, Bill Taylor, 1p
- O. HB 2396A-A2 proposed amendments, Bill Taylor, 3pp
- P. Testimony in support of HB 3051A, Peter Glazer, 1p
- Q. HB 2807A-A3 proposed amendments, Bill Taylor, 5pp
- R. HB 3376A-A2 proposed amendments, Bill Taylor, 1p