

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**May 12, 1997 Hearing Room 357**

**1:00 P.M. Tapes 82 - 83**

**MEMBERS PRESENT:**

**Rep. Lane Shetterly, Chair**

**Rep. Judy Uherbelau, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Jo Ann Bowman**

**Rep. George Eighmey**

**Rep. Floyd Prozanski**

**Rep. Charles Starr**

**Rep. Larry Wells**

**VISITING MEMBER: Rep. John Minnis**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**Bill Taylor, Counsel**

**Gina Cross, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2320 Work Session**

**HB 2948 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 82, A</b>		
		Opens the subcommittee on Civil Law at 1:27 p.m.

005	Chair Shetterly	>Refers to the memo which he received from Fiscal and distributed to the committee.
<b>HB 2948 - WORK SESSION</b>		
014	Chair Shetterly	Opens the work session on HB 2948.
015	Chair Shetterly	Refers to the -18 amendments ( <b>EXHIBIT A</b> ).
020	Rep. Bowman	When we sent this to Ways and Means, we didn't consider all the agencies which wanted to be removed.
024	Chair Shetterly	I'll be happy to entertain some discussion on the matter.
026	Rep. Beyer	We didn't send this to Ways and Means.
027	Chair Shetterly	We sent it to Fiscal. There are problems with the Fiscal. I would like to get this out today. It will go to Ways and Means in the Senate. We are running out of time.
<b>035</b>	<b>Rep. Eighmey</b>	<b>MOTION: Moves to ADOPT HB 2948-18 amendments dated 3/28/97.</b>
038	Chair Shetterly	Rep. Eighmey moves the -18 amendments into the bill. Is there discussion?
039	Rep. Beyer	Would someone tell us the changes?
041	Chair Shetterly	The best way to tell who's in and who's out is to refer to the last page of the fiscal impact statement.
051	Rep. Beyer	Are we adding agencies which were not in the original bill?
054	Chair Shetterly	They were not in the original bill.
056	Rep. Uherbelau	Why do we have an emergency clause?
060	Bill Taylor	That is a policy decision.
062	Chair Shetterly	If you look at section 57, it becomes operative on July 1, 1998.
067	John DiLorenzo	Oregon Litigation Reform Coalition >The emergency clause is due to the conceptual language on page 12 of the -18 amendments. >Without the clause, it would not be effective until 90 days after sine die.
086	Rep. Uherbelau	I don't have any recollection at all about the conceptual rule. I don't think our safety is in jeopardy with this bill.
		<b>VOTE: 6-2</b>

096		<p><b>AYE: 6 - Beyer, Bowman, Eighmey, Shetterly, Starr, Wells</b></p> <p><b>NAY: 2 - Prozanski, Uherbelau</b></p>
101	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>
102	Chair Shetterly	Calls the committee's attention to page 3 of HB 2948
109	Tim Martinez	<p>Oregon Medical Association (OMA)</p> <p>&gt;There was talk of the licensees of the Board of Medical Examiners (BME) to be excluded from this.</p> <p>&gt;There are bills on the Senate side which deals with the disciplining of physicians.</p> <p>&gt;-11 amendments</p>
119	Chair Shetterly	Recesses the meeting at 1:42 p.m..
120	Chair Shetterly	Reopens the meeting at 1:48 p.m.
125	Rep. Bowman	Where are we headed as far as those who didn't want to be included in this bill?
130	Chair Shetterly	I am not wanting to get bogged down with this right now.
144	Rep. Bowman	That is where my concern is. I suggest that we move the bill as is, or take everyone out before we go to the Senate.
151	Chair Shetterly	It's up to the committee.
153	DiLorenzo	I would like to keep everyone in the bill. The OMA has taken a different tact. Their bill divides the board into two segments. It still addresses the issue of fairness. They are addressing the issue but taking a different approach.
180	Chair Shetterly	I will take the committee's lead on this one.
184	Rep. Prozanski	Has there been any discussion as to what the fiscal impact would be between the two programs?
186	Chair Shetterly	With or without the BME?
188	Rep. Prozanski	No. The two separate approaches.
190	Martinez	No. They haven't developed a fiscal statement on the Senate side.

196	Rep. Prozanski	What we'll have is a system which is in place now, but there will be a division between the two entities.
201	Martinez	Yes. You will always have a public member on the board.
204	Rep. Prozanski	Here's another way of dealing with the problem.
211	Martinez	Yes.
214	<b>Rep. Prozanski</b>	<b>MOTION: Moves to AMEND HB 2948 by keeping the bill and going with what the BME has.</b>
218	Rep. Prozanski	Based on just receiving the fiscal and the -18 amendments today, I feel better knowing what is out there. This is the most I've seen of passing the buck.
237	Chair Shetterly	It's our job to figure out if the concept is correct. The motion would only be to the full committee. BME is the only agency doing this.
257	Rep. Uherbelau	Not only are we sending the Ways and Means issue, but we are also sending the policy issue. Are we going to deal with some, all, or none of the agencies? We have an arbitrary time limit. The full committee will be hearing many bills.
282	DiLorenzo	I understand that the -18 amendments are a compilation of what you have already adopted. When Rep. Starr moved all the amendments, it was thought that they would all be combined into one set.
306	Rep. Uherbelau	Those amendments were moved with the idea that the bill would go to Ways and Means.
312	DiLorenzo	I just wanted to let you know where they came from. I would like to have the bill go to Ways and Means on the Senate side, so we could be more efficient.
330	Rep. Bowman	I feel that we won't have the conversation before this bill moves on. Would it be appropriate to discuss this?
345	Chair Shetterly	There has been the time for someone who had amendments to come and talk about them. I think to entertain amendments would kill this bill.
368	Rep. Beyer	How can they come up with 18 1/2 additional full time equivalent?
375	Chair Shetterly	I don't know. If we take the time to figure it out, the bill will die. Rep. Prozanski made a motion to adopt the conceptual amendments.
389	Rep. Prozanski	Restates his motion to adopt the procedure that BME brought forward.
405		<b>VOTE: 2-6</b> <b>AYE: 2 - Eighmey, Prozanski</b> <b>NAY: 6 - Beyer, Bowman, Shetterly, Starr, Uherbelau, Wells</b>
412	Chair Shetterly	<b>The motion FAILS.</b>
413	Rep. Eighmey	<b>MOTION: Moves HB 2948 to the full committee with a DO PASS AS AMENDED recommendation.</b>

426	Rep. Wells	<b>MOTION: Moves to ADOPT HB 2948-11 amendments dated 3/25/97.</b>
428	Chair Shetterly	We do have a motion before us to move the bill with the -18 amendments to the full committee with a recommendation to Ways and Means.
439	Rep. Eighmey	I'll take it as a friendly amendment.
440	Chair Shetterly	Rep. Wells' motion will delete the BME. Is there any discussion?
445		<b>VOTE: 6-2</b> <b>AYE: 6 - Bowman, Eighmey, Shetterly, Starr, Uherbelau, Wells</b> <b>NAY: 2 - Beyer, Prozanski</b>
	Chair Shetterly	<b>The motion CARRIES.</b>
<b>TAPE 83, A</b>		
012	Chair Shetterly	The bill now contains the -11 and -18 amendments.
014	Rep. Eighmey	<b>MOTION: Moves HB 2948 to the full committee with a DO PASS AS AMENDED with a SUBSEQUENT REFERRAL to WAYS AND MEANS recommendation .</b>
018	Chair Shetterly	This is an advisory recommendation.
026	Rep. Beyer	I would prefer that it doesn't go to Ways and Means now. I would be prepared to make a motion that it doesn't go there.
032	Rep. Prozanski	If it doesn't fail?
033	Chair Shetterly	A vote on this motion would not bind anyone's vote when we get to the full committee. We can revisit this issue in the full committee.
039	Rep. Beyer	I would like to get clarification on that.
041	Chair Shetterly	The motion is to refer the bill to the full committee with the recommendation to Ways and Means on the House side.
049	Rep. Minnis	I don't think it's necessary to send it to Ways and Means on the House side. The policy issue can be affected in this body.
057	Chair Shetterly	I don't want it to be hung up on that recommendation.
061	Rep. Beyer	As a procedural vote motion, do we need to have the Chief Clerk tell us that if you vote to send it, then it goes?
066	Chair Shetterly	The consensus is no.
066	Rep. Minnis	There is no binding policy to send this to Ways and Means. It is a matter

		of courtesy.
071	Rep. Beyer	The motion is to send it to Ways and Means.
072	Chair Shetterly	The motion is to send it to full committee.
073	Rep. Prozanski	It will go to the full judiciary with this recommendation. There will be another vote in the full committee with or without strings attached.
082	Chair Shetterly	The official action will come when the full committee meets.
088		<b>VOTE: 5-3</b> <b>AYE: 5 - Beyer, Eighmey, Shetterly, Starr, Wells</b> <b>NAY: 3 - Bowman, Prozanski, Uherbelau</b>
092	Chair Shetterly	<b>The motion CARRIES.</b>
093	Chair Shetterly	Closes the work session on HB 2948.
<b><u>HB 2320 - WORK SESSION</u></b>		
096	Chair Shetterly	Opens the work session on HB 2320.
097	Chair Shetterly	We had testimony on this last week. The amendments are housekeeping. I will entertain a motion to adopt the -1 amendments.
109	Rep. Bowman	<b>MOTION: Moves to ADOPT HB 2320-1 amendments dated 5/7/97.</b>
106		<b>VOTE: 8-0</b>
114	Chair Shetterly	<b>Hearing no objection, declares the motion CARRIED.</b>
114	Rep. Bowman	<b>MOTION: Moves HB 2320 to the full committee with a DO PASS AS AMENDED recommendation.</b>
111		<b>VOTE: 8-0</b>
119	Chair Shetterly	<b>Hearing no objection, declares the motion CARRIED.</b> <b>Rep. Bowman will lead discussion on the floor.</b>
120	Chair Shetterly	Closes the work session on HB 2320.
136	Rep. Bowman	Asks to suspend rules and vote on HB 2835
136	Rep. Bowman	<b>MOTION: Moves to SUSPEND the rules for the purpose of voting on HB 2835.</b>

142		<b>VOTE: 8-0</b>
145	Chair	<b>Hearing no objection, declares the motion CARRIED.</b>
<b><u>HB 2835 - WORK SESSION</u></b>		
146	Chair Shetterly	Reopens the work session on HB 2835.
146	Chair Shetterly	How do you vote?
147	Rep. Bowman	I vote yes.
147	Chair Shetterly	Closes the work session on HB 2835
148	Rep. Beyer	Did we violate any rules because that wasn't on the schedule?
149	Chair Shetterly	It is on the schedule.
150	Bill Taylor	If we have a meeting on a Friday, we have the same schedule on Monday so that we meet the 24-hour notice rule.
161	Rep. Bowman	Moves for hearing on HB 3366 for the purpose of testimony only.
<b><u>HB 3366 - WORK SESSION</u></b>		
165	Chair Shetterly	Opens the work session on HB 3366.
166	Paul Helikson	President, Oregon Process Servers >I will be happy to answer any questions that you may have.
171	Chair Shetterly	Does anyone remember their questions?
176	Chair Shetterly	You are a process server?
177	Helikson	I own a process serving company in Redmond.
180	Bill Taylor	How many process servers are there in Oregon? How many do you represent?
183	Helikson	There are about 36 in our organization. This bill is to protect the process servers.
199	Chair Shetterly	Is the \$25 for the county on a per county basis where the server operates?
203	Amanda Williams	Oregon Association of Process Servers >The process server registers in the county where their business is.

214	Rep. Bowman	There was a concern that process servers may not know that they have to register. What mechanism will your association use to make sure that your members know they have to register?
220	Helikson	Most states are moving toward licensing. We are coming to you for help before there is a problem. That would have to go through the court administrators.
242	Rep. Prozanski	I don't think that the bill is saying servers only register once. There is no reference to servers being able to serve outside of the county where they are registered.
259	Williams	I wanted to add that there is also notices which can be posted in the courthouses. There are no penalties for not registering.
285	Rep. Prozanski	What is the purpose of this bill? Why would we have this bill if there is no penalties?
293	Williams	There are benefits to registering under this bill. The person who uses the process server would not be able to get full collection of costs if they used a server who is not registered.
314	Rep. Prozanski	The penalty will be with the innocent person who uses the server.
322	Helikson	Every affidavit would have a space for the registered server to place his number.
341	Rep. Wells	I need to be convinced to support this bill.
353	Rep. Uherbelau	Will you register in the county of your place of business?
358	Helikson	Yes.
359	Rep. Uherbelau	That one registration will suffice for all the other counties?
361	Helikson	Yes.
363	Rep. Uherbelau	Why don't you make a centralized registration?
366	Helikson	This bill is our best attempt to do this.
383	Chair Shetterly	Maybe we can look at the Department of Motor Vehicles as the central registration place.
392	Williams	This type of registration came up as the easiest starting point.
404	Rep. Beyer	Did you say you have 36 people in your association?
406	Helikson	We have about 90 people total.
411	Rep. Beyer	Would the out of state people have to register?
412	Helikson	No.
413	Rep. Beyer	We are registering 36 people in Oregon which leaves 10 not registered, correct?
419	Helikson	There is no registration now.
436	Chair	Closes the work session on HB 3366.



	Shetterly	
439	Chair Shetterly	Closes the subcommittee at 2:24 p.m.

Submitted By, Reviewed By,

Gina Cross, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - HB 2948, -18 amendments (dated 3/27/97), staff, 13 pp.**