

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CIVIL LAW

May 30, 1997 Hearing Room 357

1:00 P.M. Tapes 94 - 95

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Judith Uherbelau, Vice-Chair

Rep. Jo Ann Bowman

Rep. George Eighmey

Rep. Floyd Prozanski

Rep. Charles Starr

Rep. Larry Wells

MEMBER EXCUSED: Rep. Roger Beyer

STAFF PRESENT: Bill Taylor, Counsel

Gina Cross, Administrative Support

MEASURE/ISSUES HEARD: SB 159 Public Hearing and Work Session

HB 2118 Work Session

SB 267A Public Hearing and Work Session

SB 730 Public Hearing

SB 528 Public Hearing and Work Session

SB 273A 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 94, A		
002	Chair Shetterly	Opens the meeting at 1:12 p.m. Opens a public hearing on SB 159.

<u>SB 159 - PUBLIC HEARING</u>		
005	Rep. Bryan Johnston	State Representative, District 31. Explains provisions of the bill. Indicates that the bill does not create new financial obligations for the state.
032	Rep. Wells	Asks about the purpose and statistics of dispute resolution.
038	Rep. Johnston	Indicates that there are several areas where dispute resolution is used and they have different success rates.
049	Rep. Eighmey	Explains that there has been and increased use of dispute resolution in family law and other areas. Suggest that the program has not been in use long enough to determine the effects.
060	Rep. Johnston	With the rapid growth in Oregon, the duties of the Dispute Resolution Commission have expanded.
075	Donna Silverberg	Director, Oregon Dispute Resolution Commission Expresses support for SB 159. Indicates that the purpose of the bill is to give authority to continue to work with state agencies to increase the use of alternative dispute resolution. (EXHIBIT A)
121	Chair Shetterly	Closes the public hearing on SB 159. Opens a work session on SB 159.
<u>SB 159 WORK SESSION</u>		
124	Rep. Prozanski	MOTION: Moves SB 159 to the full committee with a DO PASS recommendation.
125	Chair Shetterly	Hearing no objections, declares the motion CARRIED. REP. JOHNSTON will lead the discussion on the floor.
126	Chair Shetterly	Closes the work session on SB 159 and opens a work session on HB 2118.
<u>HB 2118 WORK SESSION</u>		
133	Bill Taylor	Counsel Explains provisions of the bill. Discusses the -3 amendments. (EXHIBIT B)
137	Chair Shetterly	Asks if the amendments replace the entire bill.
142	Donna Silverberg	Director, Oregon Dispute Resolution Commission Indicates the amendments replace most of the bill. Explains provisions of the amendments. (EXHIBIT C)

154	Rep. Eighmey	MOTION: Moves to ADOPT HB 2118-3 amendments dated 5/29/97.
156	Chair Shetterly	Hearing no objections, declares the motion CARRIED.
158	Rep. Eighmey	MOTION: Moves HB 2118 to the full committee with a DO PASS AS AMENDED recommendation, with a subsequent referral to Ways and Means.
160	Chair Shetterly	Hearing no objections, declares the motion CARRIED.
180	Chair Shetterly	Closes the work session on HB 2118. Opens a public hearing on SB 267.
<u>SB 267</u> <u>PUBLIC</u> <u>HEARING</u>		
183	Bill Taylor	Counsel Explains provisions of the bill and the -A4 amendments. (EXHIBIT D)
203	Bob Winger	Oregon State Bar Provides a more detailed explanation of the -A4 amendments. Indicates that the -A4 amendments replace previously adopted -A2 amendments and -A3 amendments.
223	Chair Shetterly	Verifies that the -A4 amendments replace -A2 and incorporate the -A3 amendments.
227	Winger	Answers affirmatively.
231	Rep. Eighmey	Verifies that everyone who should have been contacted was contacted and they have agreed and reviewed the amendments.
238	Jane Meyers	Oregon Dental Association Asks what the difference is between the -A4 and -A2 amendments.
248	Winger	Explains that there were conceptual amendments in the -A4 amendments that were not in the -A2 amendments. Continues to explain clarifications in the amendments.
267	Kelly Haggen	Counsel, Oregon Medical Association. Explains that the concept of the bill remains the same from a drafting perspective. Indicates that some concepts were left out of the -A2 amendments by Legislative Counsel.
292	Bill Taylor	Counsel Asks if the amendments or original bill impacts vicarious liability as it relates to shareholders of professional companies.
297	Winger	Indicates that there are no impacts.

310	Rep. Eighmey	MOTION: Moves to recede from the -A2 and the -A3 amendments to SB 267
312	Chair Shetterly	Hearing no objections, declares the motion CARRIED .
314	Rep. Eighmey	MOTION: Moves to ADOPT SB 267-A4 amendments dated 5/30/97.
316	Chair Shetterly	Hearing no objections, declares the motion CARRIED .
318	Rep. Eighmey	MOTION: Moves SB 267 to the full committee with a DO PASS AS AMENDED recommendation.
320	Chair Shetterly	Hearing no objections, declares the motion CARRIED . REP. SHETTERLY will lead discussion in the full committee.
340	Chair Shetterly	Closes the work session on SB 267 and opens a public hearing on SB 730.
<u>SB 730</u> <u>PUBLIC</u> <u>HEARING</u>		
349	Jody Fischer	Oregon Rehabilitation Association. Explains provisions of SB 730. Describes how Sen. Brown offered an amendment on the Senate side to narrow the focus of the bill.
380	David Wiegan	Mid-Valley Rehabilitation. Expresses support for SB 730 (EXHIBIT E). Describes how Mid-Valley costs of operation are much less than what state service would cost.
400	Rep. Eighmey	Discusses standards that the state must comply with.
Tape 95, A		
008	Wiegan	Indicates that the privatized programs have rigorous training programs, and they must comply with all state requirements.
015	Rep. Bowman	Asks what percentage of their budget comes from the state.
020	Wiegan	Describes how a large portion of their funding comes from the sale of contracts and services. Indicates that about 25% of their budget comes from the state, but other organizations have larger state budgets.
027	Rep. Bowman	Asks if a board is in control of Mid-Valley Rehabilitation.
030	Wiegan	Answers affirmatively.
031	Rep. Bowman	Asks if the board's mission can be completely different than the State's.
		That may be true, but when we take on a contract we take on the

032	Wiegman	State's mission.
037	Rep. Bowman	Asks what happens when the desires of the board and state are different from each other. Explains that Mid-Valley receives only 25% of their funding from the state and therefore the board would have more control.
067	Fischer	Indicates that is why Sen. Brown added the amendment on the Senate side.
083	Rep. Bowman	Understands that the bill required that 50% of funding or patients be assigned by the state, but expresses concern for who the associations are accountable to.
097	Chair Shetterly	Suggests that this bill will not bring non-profit facilities under the state, but it will limit their liability.
101	Rep. Starr	Explains that there are many non-profit agencies who have genuine concern for the good of society. Funds should not be given to them with attached responsibility. Suggests that regulating non-profits is not good business sense.
129	Rep. Eighmey	States that when public funds are distributed, we need to make sure that they are spent wisely.
170	Rep. Prozanski	Asks about the effect of specific proposed language.
190	Fischer	In reference to proposed language, all persons would be eligible for state institutions, but there are not enough beds for those that are eligible.
196	Rep. Prozanski	Asks if the language may open a broader window for participation from non-profits.
200	Rep. Starr	Suggests that the language is necessary since all clients eligible are not being served.
210	Joanne Fuhrman	Polk Community Living Testifies in support of the bill and explains that the proposed language would add longevity to the program. (EXHIBIT F)
220	Chair Shetterly	Asks if there is there a State definition for "eligible."
230	Fuhrman	The Oregon Department of Mental Health would have the definition.
247	Chair Shetterly	Suggests that previous legislatures have opened the door to limited liability.
255	Bill Taylor	Indicates that there is a risk assessment department in the Department of Administrative Services (DAS) that goes out and advises agencies on how to reduce their liabilities. Asks if that will happen with the bill.
270	Fisher	Indicates that this is already happening.
280	Wiegman	Explains that non-profits consult with State and County agencies, but they also consult with their own private attorneys.

300	Fuhrman	Discusses funding from the state. Explains that the organization is required to meet the Oregon Administrative Rules for their funding.
315	Chair Shetterly	Asks if the bill needs to be amended to include funding from counties.
322	Fuhrman	States that the money is funneled through the county, but not from the county.
324	Chair Shetterly	Asks if the contract is with the county or the state.
325	Fuhrman	It's with the county.
330	Rep. Prozanski	As long as the money could be traced, I would think it would be okay.
350	Chair Shetterly	I think this is something we may need to clarify.
362	Rep. Prozanski	There are some grant type funds which come from municipalities.
372	Fischer	States that she will work on the "eligibility" aspect of this bill.
382	Jeff Watkins	Oregon Advocacy Center Testifies in opposition to SB 730. States that the bill is unfair to those who are vulnerable to abuse. If the intent is to move the bill, suggests that a sunset provision be included.
442	Rep. Prozanski	Asks if there is complete immunity if a patient is injured in a State facility.
451	Watkins	Describes what happens in the event of injury.
Tape 94, B		
003	Rep. Prozanski	Asks if it would be better to extend a similar type of immunity to State facilities.
013	Watkins	Suggests that limited liability is a good thing.
015	Chair Shetterly	Indicates that by bringing non-profits under the tort claims act they are also under limited liability that is applied to public bodies.
022	Rep. Uherbelau	The main issue is that insurance rates are very high for these people. They are taking on the role the state used to have. Agrees that a sunset clause be applied to the bill.
043	Fischer	Indicates that the bill will lower insurance premiums and assets will become vulnerable.
057	Rep. Uherbelau	Asks if non-profits could separate from ownership of an asset so that the asset would not be vulnerable.
069	Fischer	Explains that is the same situation a state institution faces.
076	Chair Shetterly	Verifies that there are parallels between state and private institutions.
081	Watkins	Indicates that it is reasonable to add a sunset provision and reexamine the bill later.

098	Chair Shetterly	Closes public hearing on SB 730. Opens a public hearing on SB 528.
<u>SB 528 PUBLIC HEARING</u>		
105	Betsy Earls	Associated Oregon Industries Discusses the rescinding of the -1 amendments. Expresses support for the -4 amendments.
114	Rep. Eighmey	Describes the -4 amendments (EXHIBIT G). Explains that they retain the original bill with some deletions. Indicates that all agree to the amendments.
147	Rep. Uherbelau	Verifies that only the -4 amendments remain.
149	Chair Shetterly	States that the bill is very narrow now.
152	Earls	Explains that language for the bill was copied from another state and the amendments will address the current problem.
156	Rep. Wells	We took out the language on "anticipating termination", now the person actually has to have been terminated.
162	Chair Shetterly	Asks if the Supreme Court has remanded the issue.
166	Earls	Answers affirmatively.
176	Chair Shetterly	Closes public hearing on SB 528. Opens a work session on SB 528.
<u>SB 528 WORK SESSION</u>		
183	Rep. Eighmey	MOTION: Moves to ADOPT SB 528-4 amendments dated 5/23/97.
185	Chair Shetterly	Hearing no discussion, declares the motion CARRIED.
188	Rep. Eighmey	MOTION: Moves SB 528 to the full committee with a DO PASS AS AMENDED recommendation.
190	Chair Shetterly	Hearing no discussion, declares the motion CARRIED. REP. EIGHMEY will lead discussion in the full committee.
195	Chair Shetterly	Closes the work session on SB 528 and opens a public hearing on SB 273.
<u>SB 273 PUBLIC HEARING</u>		
	Kingsley	State Court Administrator

200	Click	Testifies in support of SB 273, and submits proposed amendments to the bill. (EXHIBITS H, I, J) Discusses the -A4 and -A5 amendments.
295	Rep. Wells	Asks if the amendments merely move money around or if they raise revenue for the courts.
300	Click	Explains that all money collected goes into the general fund.
303	Rep. Uherbelau	Asks if Ms. Click supports the -A5 amendments.
306	Click	Expresses preference for the -A4 amendments.
316	Rep. Uherbelau	Indicates that a letter from Ms. Click clearly explains the purpose of original language.
322	Rep. Bowman	Expresses appreciation for attentiveness to concerns of the committee.
337	Bill Taylor	Counsel Explains that HB 2748 and amendments to that bill will also be included in SB 273 language. (EXHIBIT K)
370	Nancy Miller	Citizen Review Board Testifies in support of HB 2748 and submits proposed amendments to the bill. (EXHIBIT L) Explains amendments to the bill.
417	Chair Shetterly	I believe we have all heard a great deal of testimony on this and don't need a great deal of detail today.
419	Rep. Uherbelau	Indicates that there was extensive testimony in the Family Law Subcommittee in regards to the bill. States that there was extensive support for it.
Tape 95, B		
010	Miller	Describes the impact of the bill. Stresses the importance of keeping the bill revenue neutral.
025	Click	Indicates that the Judicial Department is ok with including the HB 2748 in SB 273.
030	Rep. Wells	Asks what changes have been made to the unitary assessment this session.
034	Click	Does not know of any bills that have dealt with this.
037	Chair Shetterly	Closes the public hearing on SB 273. Opens a work session on SB 273.
<u>SB 273 WORK SESSION</u>		
042	Chair Shetterly	MOTION: Moves -A3 and -A4 into SB 273 and move the -1 amendments into HB 2748 and move HB 2748 into SB 273.
050	Rep. Wells	Verifies that the -A5 amendments are not to be moved into the bill.
051	Chair Shetterly	Answers affirmatively.

052	Rep. Wells	Asks about what is being added to the Criminal Injury Compensation Report.
057	Miller	Indicates that the amount is being changed in the -1 amendments. Continues a discussion with Rep. Wells.
115	Chair Shetterly	Hearing no objections, declares the motion CARRIED. REP. BOWMAN will lead discussion in the full committee.
122	Chair Shetterly	Closes the work session on SB 273. Opens a public hearing on SB 886.
<u>SB 886</u> <u>PUBLIC</u> <u>HEARING</u>		
123	Sen. Kate Brown	State Senator, District 7. Expresses support for the bill and submits testimony for the committee. (EXHIBIT M)
130	Cheryl Pellegrini	Attorney General's Office Expresses support for SB 886. Explains provisions of the bill. (EXHIBIT N)
189	Rep. Uherbelau	Asks if the Oregon Nursing Association and social workers have approved provisions of the bill.
193	Pellegrini	No.
204	Rep. Eighmey	Verifies that the bill doesn't compel testimony, but it permits testimony.
206	Pellegrini	Answers affirmatively. Explains that the bill will allow a patient's testimony to come in court, but it doesn't compel their testimony.
212	Rep. Uherbelau	Verifies that the bill would allow a patient the privilege.
215	Chair Shetterly	Indicates that the court could compel the patient to answer.
219	Pellegrini	There are other grounds that it could be excluded.
225	Fred Boss	Attorney General's Office. Expresses support for SB 886. Indicates that nurses and social workers have day to day contact with patients and therefore their testimony at a recommitment hearing would be valuable. (EXHIBIT O)
262	Rep. Uherbelau	Asks if there were objections to the bill on the Senate side
267	Pellegrini	No.
270	Chair Shetterly	Closes public hearing on SB 886. Adjourns the meeting at 3:02 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 159, Written testimony, Donna Silverberg, 10 pp.

B - HB 2118, -3 amendments, Donna Silverberg, 10 pp.

C - HB 2118, Written testimony, Donna Silverberg, 11 pp.

D - SB 267, -A4 amendments, Legislative Counsel, 7 pp.

E - SB 730, Written testimony, David Wiegand, 2 pp.

F - SB 730, Written testimony, Joanne Fuhrman, 3 pp.

G - SB 528, -4 amendments, Legislative Counsel, 1 p.

H - SB 273, Written testimony, Kingsley Click, 1 p.

I - SB 273, -A4 amendments, Kingsley Click, 1 p.

J - SB 273, -A5 amendments, Kingsley Click, 1 p.

K - HB 2748, Original Bill, Legislative Counsel, 11 pp.

L - SB 273, Written materials, Nancy Miller, 1 p.

M - SB 886, -A2 amendments, Sen. Brown, 2 pp.

N - SB 886, Written testimony, Cheryl Pellegrini, 3 pp.

O - SB 886, Written testimony, Fred Boss, 2 pp.