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**SENATE COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT**

**February 18, 1997 Hearing Room A**

**1:00pm Tapes 57- 58**

**MEMBERS PRESENT:**

**Sen. Neil Bryant, Chair**

**Sen. Randy Miller, Vice-Chair**

**Sen. Kate Brown**

**Sen. Gene Derfler**

**Sen. Randy Leonard**

**Sen. David Nelson**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**David Amesbury, Counsel**

**Andrea Terry, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 273**

SB 413

SB 378

SB 66

**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 57, A</b>		
007	Chair Bryant	Opens meeting at 1:04; opens public hearing on SB 378
<b><u>SB 378-- PUBLIC HEARING AND WORK SESSION</u></b>		
010	Sen. Kintigh	EXHIBIT A
027	Bryant	close public hearing on SB 378; open work session on SB 378
<b>032</b>	<b>Sen. Bryant</b>	<b>MOTION: Moves SB 378 to the floor with a DO PASS recommendation.</b>
034	Bryant	no discussion, no objection Sen. Kintigh will carry
<b><u>SB 413-- PUBLIC HEARING AND WORK SESSION</u></b>		
039	Bryant	open public hearing on SB 413
042	Sen. Baker	to make a will you have to show that you are competent older people are sometimes frail
		advent of trusts avoid probate costs

057	Baker	trusts have never required statutory documentation no need for witnesses or notarizing SB 413 says that when you sign a trust you have the same thing as a will, which is two signatures
081	Baker	the bill is drafted very cleanly; it is a simple bill on the proposed amendments that DOJ is going to present I ask you to look at SECTION 5, I am very leery of this wording
109	Pete Shepard	Attorney in charge of the financial fraud section of the Department of Justice
111	Shepard	since March of 1995 we have opened 34 investigations surrounding trusts, presently 5 are still open, the others being closed with one form of enforcement action or another often the trust is presented in a hard sell manner, the sales presently take place in the homes; often the sellers are "door-to-door" salespeople
134	Shepard	EXHIBIT B
150	Bryant	I had the same experience brought to me by a couple who thought they had paid \$1700 for a trust to be drawn up (not by a lawyer) and the trust was done incorrectly one of the reasons this couple did the trust through this person was they did not have to go to into an office, everything could be done over the phone and through the mail and this was a real selling point; the couple lost \$1700 because the trust was invalid
165	Shepard	unfortunately there are a lot of those cases out there, many which will not be caught until the trustee is dead
185	David Amesbury	resulting trusts in Section 4, normally those are creatures of the court what happens to property that is put into a trust, but the trust doesn't meet the formality of the bill
194	Baker	proceeds as a resulting trust explanation of this
204	Amesbury	doesn't it just proceed as a resulting trust as if it had been properly executed
207	Baker	the resulting trust is usually when the court has control of the assets
216	Bryant	we will take a look at your amendments and contact OSB on estate planning, then we will come back and work the bill
221	Braynt	close public hearing on SB 413
228	Bryant	LC drafts, committee bills
		introduction of LC drafts

234	Amesbury	LC 59 introduced as SB 587; LC 239 introduced as SB 588; LC 301 introduced as SB 589; LC 1496 introduced as SB 590 ; LC 1688 introduced as SB 591; LC 1689 introduced as SB 592; LC 1715 introduced as SB 593; LC 1762 introduced as SB 594; LC 1773 introduced as SB 467; LC 1813 introduced as SB 595; LC 1858 introduced as SB 474; LC 1902 introduced as SB 596; LC 1903 introduced as SB 597; LC 1908 introduced as SB 598; LC 2003 introduced as SB 599; LC 2005 introduced as SB 600; LC 2053 introduced as SB 601; LC 2054 introduced as SB 602; LC 2156 introduced as SCR 4; LC 2157 introduced as SB 603; LC 2192 introduced as SB 604; LC 2252 introduced as SB 605; LC 2358 introduced as SB 606; LC 2368 introduced as SB 607; LC 2475 introduced as SB 609; LC 2554 introduced as SB 476; LC 3011 introduced as SB 473; LC 360 introduced as SB 586
294	Bryant	any objections to these LC drafts, none  open public hearing on SB 66
<b><u>SB 66-- PUBLIC HEARING AND WORK SESSION</u></b>		
301	Jeff Watkins	representing the American Massage Therapists Association; Oregon Chapter
302	Watkins	in support of SB 66
303	Watkins	EXHIBIT C
325	Bryant	on the discipline side, how many complaints do you investigate per year
335	Watkins	I believe 30 or 40 a year
358	Derfler	is there a general fund
360	Watkins	we are sponsored solely by fees, we do not use general funds for anything
Tape 58, A		
018	Bryant	I have a bill coming up that would semi-privatize state agencies
022	Bryant	ties up the E board when the state agencies always have to go through them
027	Brown	refer to line 29 - 30 what would constitute a "serious danger"
036	Watkins	depending upon the types of complaints received a licensure board would be very concerned, at times an emergency suspension might be warranted  we do not want the board to have too much power
046	Bryant	we will have Dave Amesbury check with Risk Management on this
054	Bryant	close public hearing on SB 66
<b><u>SB 273-- WORK SESSION</u></b>		

056	Bryant	open work session SB 273
059	Bryant	we have some amendments from Kingsley Click
075	Kingsley Click	State Court Administrator EXHIBIT D
081	Amesbury	explanation of amendments
086	Brown	explain the deletion of sections 7 and 8 problem with the language is the courts would have to do three days worth of restraining orders on Monday talked with Layne Barlow, he is in agreement that we delete sections 7 and 8
101	Amesbury	deletion of sections 7 and 8 would leave the law as it currently reads
108	Leonard	we are then deleting sections seven and eight
111	Bryant	we currently operate on judicial days
112	Click	that is correct
113	Derfler	some confusion: we added judicial days and now we are taking it out
116	Bryant	yes if I were a young attorney, wouldn't it be helpful to have it say judicial days
123	Brown	I don't disagree, but the Oregon Men's Association was adamant about deleting sections seven and eight
146	Bryant	I want this to be clear as to whether it is calendar days or judicial days
163	Brown	I would assume that some of the counties are operating under the assumption that it is calendar days, but I don't know that
170	Click	I do not know if there are counties using calendar days or not
174	Bryant	Mr. Barlow (Oregon Men's Association) wants the time to go faster
178	Sen. Miller	I would suggest that Mr. Barlow could come over to the House side if he wishes to add anything else
180	Bryant	I would like to leave it as "judicial"
182	Brown	I move the amendment, I assume it will fail
184	Bryant	"right"
185	Miller	"I don't think it would have"
186	Leonard	our amendment has already been adopted
188	Brown	"my concern is that amendment is problematic, though we need to do something because it now reads calendar days"
189	Miller	or we can delete the section Mr. Barlow can come over to the House side if he has concerns
		facilitating the motion

190	Amesbury	a motion that the committee adopt the -1 amendments would include only the Supreme Court Administrator's amendments and would leave the bill with "judicial days" a motion that the committee adopt the -1A amendments would include all the Supreme Court Administrator's amendments and would delete sections 7 and 8 of the bill; therefore leaving the language as "days" and not specifying "judicial" or "calendar"
196	Brown	<b>move that the committee adopt the -1A amendments</b>
198	Leonard	point of clarification on the prior vote that we had concerning SB 273
200	Bryant	this motion will delete sections 7 and 8, so it will have not effect on the prior vote
203	Leonard	-1A deletes sections 7 and 8, removes the term "judicial" is there a motion to add "judicial" days later on
205	Bryant	no, because sections 7 and 8 will have been completely deleted
206	Bryant	we will have to call the roll on this motion
207	Sen. Brown	"aye"
208	Sen. Derfler	"no"
209	Sen. Leonard	"aye"
210	Sen. Miller	"aye"
211	Sen. Nelson	"no"
212	Chair Bryant	"no"
213	Bryant	motion fails
214	Bryant	273 -1 amendments any discussion
215	Leonard	what does the effect of -1 amendments have on the prior vote (taken at the prior meeting)
217	Bryant	-1 will include sections 7 and 8 and will have it read as "judicial" days
219	Amesbury	there is some confusion, the -1 amendment has already been adopted, the committee is free to change the existing amendment if they so choose
222	Bryant	change motion to adopt 273 -1 amendment and to include in sections 7 and 8 of the bill the word "judicial" before the word days on line 12, 14 and 17
224	Leonard	I will oppose the motion, because I agree with Mr. Barlow's request
226	Bryant	any other discussion, any other objections
228	Brown	I will object

229	Miller	I will object
230	Bryant	motion fails
232	<b>Sen. Leonard</b>	<b>MOTION: Moves SB 273 to the floor with a DO PASS as Amended recommendation.</b>
233	Bryant	I will oppose this, because the court would have to do three days worth of work in one day
234	Brown	we have not yet adopted the -1 amendments
236	Leonard	I will withdraw my motion and move the -1 amendments as printed
237	Amesbury	-1 amendments are suggested by the Supreme Court Administrator's office make some minor technical corrections does not refer to "judicial" or "calendar" days
240	Bryant	let's adopt the -1 amendments and then come back to the issue on "calendar"
241	Bryant	any discussion, any objections to -1 amendments none
242	Leonard	move to delete the term "calendar" in sections 7 and 8
244	Bryant	any discussion on this
245	Derfler	objects to this motion
246	<b>Sen. Leonard</b>	<b>MOTION: Moves SB 273 to the floor with a DO PASS AS AMENDED recommendation.</b>
248	Bryant	any objections, any discussion
249	Derfler	objects
250	Bryant	motion passes
252	Brown	will carry SB 273
253	Bryant	adjourns the meeting at 1:58pm

**Submitted By, Reviewed By,**

**Andrea Terry, David Amesbury,**

**Administrative Support Counsel**

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**EXHIBIT SUMMARY**

**A - Testimony for Senate Bill 378; introduced by Senator Bob Kintigh; 3 pages**

**B - Proposed amendments to SB 413; introduced by Department of Justice; 1 page**

**C - Explanation of SB 66; introduced by Jeff Watkins; 1 page**

**D - Proposed amendments to SB 273; introduced by Kingsley Click; 2 pages**

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