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

**January 21, 1997 Hearing Room A**

**1:00 pm Tapes 15 - 17**

**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 241**

SB 252

SB 266

SB 270

SB 273

SB 274

SB 275

**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 15, A</b>		
	Chair Bryant	Opens meeting at 1:05pm
<b><u>SB 241-PUBLIC HEARING</u></b>		
001	Bryant	Opens public hearing on SB 241
003		EXHIBIT A
006	Bob Olson	OSB; Public Affairs Director
		EXHIBIT B
036	Carl Myers	OSB; this bill only affects cases that would automatically be sent to the Supreme Court
042	Sen. Brown	this is just a handful of cases from 1991-1996
050	Bryant	close Public Hearing on SB 241
<b><u>SB 252-PUBLIC HEARING AND WORKSESSION</u></b>		
058	Bryant	open Public Hearing on SB 252
070	Carl Myers	OSB; under the current situation if a lawyer is missing (i.e. death) and a sole practitioner The Bar steps in; we are asking for a temporary guardianship for a law practice so that the Bar can step in quickly and manage the law practice; this is to save further damage to the client; EXHIBIT D

073	Bryant	question: what if you are unable to locate the attorney
086	Myers	there is a process for trying to locate an attorney, but it takes a great deal of time; we are trying to help out the client and not tie up the courts
094	Bryant	close public hearing on 252; open worksession on SB 252
	Miller	motion to "do pass" on 252
096	Bryant	discussion; there are no objections; Senator Nelson will carry SB 252
<b><u>SB 241-PUBLIC HEARING AND WORKSESSION</u></b>		
101	Bryant	close public hearing on SB 241
102	Bryant	open worksession on SB 241
103	Miller	motion "do pass" on SB 241
104	Bryant	motion carries, Miller will carry
<b><u>SB 266-PUBLIC HEARING AND WORKSESSION</u></b>		
125	Bryant	open public hearing on SB 266
128	Richard Lane	OSB; Chair of the Practice and Procedures Committee; EXHIBIT F; speaking in favor of SB 266
135	Bryant	question about plaintiff failing to give notice
148	Bill Sime	OSB; past Chair of the Practice and Procedures Committee; gives example of someone injured in car accident and does not file until six months after accident occurs
170	Bryant	one correction in your testimony, <u>Beaver v. Pellett</u> is 1995
176	Sime	purpose of tort claims act is to give the state notice and to investigate claims
185	Bryant	calls up next witnesses, but asks Mr. Lane what he believes the other witnesses will say
190	Lane	response to what he believes other witnesses might say; there is a concern about the scope in what is being proposed in SB 266-who can provide notice of claim
226	Timothy Wood	Chief Trial Counsel for the Oregon Department of Justice; introduction of others; opposition of SB 266
250	Timothy Wood	Beaver v. Pellet is 1985 case; discussion of risk management and the case load they get each year; plaintiff must give notice of claims within six months of incident; risk management settles 90-95 percent of these each year
281	Wood	example: we get a notice about placement of children in Foster Care; we then go in and investigate

286	Bryant	what about a traffic incident where the plaintiff does not give you notice
312	Wood	we investigate the claim, talk to people , and could knock on plaintiff's door; we are working with Richard Lane on a solution to this process
340	Jim Griffin	Senior Assistant Attorney General Department of Justice
347	Griffin	problem lies in the language of this bill
356	Griffin	we want to make sure the state does not become liable
Tape 16, A		
019	Griffin	injured party's employer example; the employer gives the employee a "bad" car to drive
027	Bryant	discussion of the statute of limitations (six months from date of incident)
052	Wood	legislature is the board of directors for the risk management; case in Minnesota came out opposite of <u>Beaver v. Pellett</u> ; we believe this will have a fiscal impact on the state
070	Bryant	I suggest you and Mr. Lane and Mr. Sime get together after we hear from Mr. Snider
079	Paul Snider	Assoc. of Oregon Counties; supports the two previous witnesses; language of SB 266 is much to broad
080	Snider	opposes SB 266
098	Bryant	there does need to be more clarity on this bill
102	Snider	agrees with Chair Bryant
112	Bryant	I suggest Mr. Amesbury (Counsel) meet with all interested parties to work through the language
121	Bryant	any questions; there are none
123	Bryant	close public hearing on 266
<b><u>SB 270-PUBLIC HEARING AND WORKSESSION</u></b>		
140	Bryant	opens public hearing on SB 270
142		EXHIBIT G
146	Doug Bray	Deputy State Court Administrator Oregon Judicial Department; EXHIBIT H
184	Senator Brown	question, reference to 1995 session HB 2910--this bill resolved a problem regarding getting into court in a timely manner regarding custody
197	Brown	concern was that custody changes were made on the basis of an affidavit
203	Senator Leonard	some clarification needed

211		EXHIBIT I entered
228	Brown	explanation to entire committee on custody
230	Leonard	questions about "fit" parents
246	Bray	explanation to Sen. Leonard
255	Leonard	warring parents
260	Bray	that is a concern and that certainly can happen
269	Bryant	if a child has been abused aren't they to be reported to the proper authorities
286	David Nebel	Oregon Law Center
290	Nebel	there are problems with the bill as presented
301	Nebel	proponent of HB 2910 last session
311	Nebel	a fast track hearing
341	Russ Lipetzky	OSB
352	Lipetzky	two issues in this bill
Tape 15, B		
008	Bryant	status quo
012	lipetzky	partially correct
025	Leonard	this sounds like a child visiting a non custodial parent every other weekend
031	Lipetzky	would be asking
041	Bray	have talked to Judge Wells and I have hand engrossed...
050	Bryant	the other parent is leaving the state
056	Brown	when the child is in immediate danger, question for Mr. Lipetzky
063	lipetzky	answer
084	Bryant	could Brown and parties get together
089	Bryant	close public hearing on 270 and open public hearing on 273
<b><u>SB 273-PUBLIC HEARING AND WORKSESSION</u></b>		
097	Kingsley Click	State Court Administration
101		EXHIBIT G
113	Click	I will walk you through the sections
161	Click	sections 5 - 18
173	Click	sections 21-23
186	Click	section 14

229	Bryant	sex change operation question
234	Karen Hightower	a certificate is given, this is not a substantive change
241	Bryant	summary of what Click said, sections to deal with are 14 and 9
252	Lipetzky	refer to section 9; relating to a default situation--it does not relate to a default situation; sub-heading is incorrect
274	Bryant	sub-heading should be "Mandatory discovery in dissolution"
279	Click	agrees with this heading
300	Click	further meeting with chair of Family Task Force
307	Bryant	listing Judge's office as address
316	Bryant	EXHIBIT M; for the record letter from Edwards
337	Miller	first section referred to 21 days
351	Karen Hightower	becomes an issue in over 10 days
367	Miller	should it be 5 days or 5 "judicial" days, is this an issue
370	Hightower	I don't recall it being an issue
Tape 16, B		
010	Bryant	close public hearing on SB 273; open public hearing on SB 274
<b><u>SB 274--PUBLIC HEARING AND WORKSESSION</u></b>		
033	Nass	EXHIBIT O
081	Nass	still discussing EXHIBIT O
091	Leonard	if a judge is not named in a writ how can he be mandated
096	Nass	if the court wants the Judge involved he is ordered in writing to do so
111	Senator Nelson	how many writs have you received in the last year
115	Nass	guess about 50-60 per year; court probably only allowed about 10
127	Nass	Section 3 of EXHIBIT O
169	Bryant	close public hearing on 274 and open worksession on 274
171	Miller	"do pass as amended" motion; amendments are attached to EXHIBIT O
174	Bryant	any objections, none it will pass as amended
175	Nelson	will carry the bill
180	Bryant	close worksession on SB 274
<b><u>SB 275--PUBLIC HEARING AND</u></b>		

<u>WORKSESSION</u>		
		EXHIBIT P
205	Jim Nass	Legal Counsel for the Oregon Court of Appeals
206	Nass	EXHIBIT Q
257	Nass	still discussing EXHIBIT Q
306	Nass	still discussing EXHIBIT Q
347	Leonard	confirms his understanding about Section 1
360	Nass	explains amendments that are proposed
Tape 17, A		
003	Bryant	has LC seen the amendments
004	Nass	no
006	Robert Moore	lobbyist for Workers' Compensation; we have no problem with the bill, but we do have one improvement
013	Moore	please turn to page 2 we would like to add seven words
017	Moore	line seven after the word "parties" add "or their attorneys if they are represented"
023	Nass	has some problem with the insertion of this language
033		Senator Derfler arrives
035	Moore	withdraws suggestion of the insertion of "or their attorneys if they are represented"
042	Bryant	close public hearing on SB 275
049	Bryant	chair moves SB 275 be amended with first page of amendments, second page be amended conceptually , Bryant will carry
055	Bryant	meeting adjourns

**Submitted By, Reviewed By,**

**Andrea Terry, David Amesbury,**

**Administrative Support Counsel**

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**EXHIBIT SUMMARY**

**A - SMS for SB 241 - 1 page**

**B - Oregon State Bar testimony for SB 241 - introduced by OSB - 2 pages**

**C - SMS for SB 252 - 1 page**

**D - Oregon State Bar testimony for SB 252 - introduced by OSB - 1 page**

**E - SMS for SB 266 - 1 page**

**F - Memo from Oregon State Bar Procedure & Practice Committee - introduced by OSB - 1 page**

**G - SMS for SB 270 - 1 page**

**H - Testimony of Doug Bray on SB 270 - introduced by Doug Bray - 1 page**

**I - Memo from Mark Kramer on SB 270 - introduced by Senator Brown - 4 pages**

**J - Letter from Jeff Edwards - introduced by Jeff Edwards - 1 page**

**K - SMS for SB 273 - 1 page**

**L - Testimony of Kingsley Click - introduced by Kingsley Click - 7 pages**

**M - Letter from Jeff Edwards on SB 273 - introduced by Jeff Edwards - 1 page**

**N - SMS for SB 274 - 1 page**

**O - Testimony from Jim Nass on SB 274 - introduced by Jim Nass - 8 pages**

**P - SMS for SB 275 - 1 page**

**Q - Testimony from Jim Nass on SB 275 - introduced by Jim Nass - 12 pages**

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