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SENATE COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT

January 27, 1997 Hearing Room A

1:00pm Tapes 24-27

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 47

SB 85

SB 118

SB 159

SB 202

SB 203

SB 204

SB 205

SB 206

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 24, A		
	Chair Bryant	opens the meeting at 1:04
<u>SB 47--PUBLIC HEARING AND WORKSESSION</u>		
006	Bryant	open public hearing on SB 47
008	Paul Tiffany	Governmental Relations Manager for the Bureau of Labor and Industries
010	Tiffany	EXHIBIT B
029	Bryant	close public hearing on SB 47; open worksession on SB 47
031	Sen. Brown	motion "do pass" on SB 47
035	Bryant	passes and Sen. Brown will carry
038 Bryant close worksession on SB 47		
<u>SB 268--RECONSIDERATION</u>		
040	Bryant	reconsideration of SB 268; open worksession

		on SB 268
044	Jim Kennedy	attorney from Kennedy and Kennedy; chaired the task force that drafted SB 268
		discussion of proposed amendments
		change the definition of "professional" in subsection 12 of section 1 to make it consistent with SB 267
060	Kennedy	reference to SB 267
089	Bryant	other changes are in the letter (EXHIBIT D)
097	Kennedy	changes proposed make SB 268 agree with SB 267
110	Leonard	wasn't here for the original meeting, assume that the other amendments have already been adopted, correct
114	Bryant	"yes, Sen. Leonard"; moves that the new changes be added to SB 268, and that it go to the floor as "do pass" with amendments, carrier: Bryant; close worksession on SB 268
<u>SB 85--PUBLIC HEARING AND WORKSESSION</u>		
128	Bryant	open public hearing on SB 85
140	Linda Riddell	Appraiser Certification Licensure Board
		EXHIBIT F
146	Bryant	refer to section 4-A, can't my realtor give the value of a piece of property
162	Riddell	no one but licensed appraisers can give appraisals, unless they fall into an exception
172	Derfler	this goes on all the time when realtors go out and give the estimated value of homes and property
194	Brown	aren't these exceptions in sections 2 and 3 on the bill
205	Bryant	when practicing law, I often called a realtor friend of mine to give me values of homes (this was done when Bryant was dealing with cases of divorce)
209	Riddell	what is the market doing in that area, related to rent studies they can answer that
228	Bryant	of course if this went to court my client would hire an appraiser, but before that talking to a realtor can give a lawyer and client some idea of the value of the house

242	Derfler	consideration as to what is illegal
250	Sen. Leonard	listing of house--I want my realtor to tell me what my house is worth
263	Riddell	see 2-G of the bill
269	Bryant	what are the rules for appraiser certification and licensure board
274	Riddell	this is chapter 696 (real estate chapter)
293	Bryant	we need to look at this bill a little longer
301	Riddell	this bill is to solve people indicating that they are an exception to the rule
306	Sen. Miller	is this widespread?
310	Riddell	I would not say this is widespread direct the Senators to 1-1A; it says you can't engage in real estate appraisal activity and 1B defines real estate appraisal activity as giving value on a given date
321	Derfler	under 2 it says of the federally related transaction, it is not a federally related transaction
325	Riddell	yes it is federally regulated; we are classified as a "mandatory state"; all real estate activity is regulated; see 1-B
349	Sen. Nelson	this doesn't say if it is a written or an oral opinion; I understand it is written
356	Bryant	I think this is still a very gray area
Tape 25, A		
001	Leonard	a real estate agent would be violating the law if they give an opinion, this is very confusing
007	Riddell	depends on what is issued by the realtor, if they are issuing a document that includes a competitive market analysis and their opinion related to the value of the property then there could be a problem; if they look at all the other sales in the neighborhood and recommend a list price
024	Leonard	what is the difference between those two situations
028	Riddell	the first is issuing an opinion regarding that real estate on a given day, the second one considers all the sales in the neighborhood
030	Leonard	if the realtor uses the words "in my opinion" on the second example then that is a violation of

		the law
032	Riddell	if they say "in my opinion"
035	Bryant	so this statement could get the realtor in trouble; most people aren't that careful in their semantics
045	Leonard	you could get the realtor in trouble if they used "in my opinion" they could be subpoenaed
049	Riddell	this is not what we want to do
052	Leonard	my real estate agent gave me a book filled with homes in the area that sold for different prices
064	Derfler	real estate agent gives me a card and tells me what my house sells for
066	Riddell	this would not be a violation of the law
069	Brown	clarification of Sen. Leonard's comment
075	Leonard	my point is the language "in my opinion" is a violation of the law
077	Sen. Miller	it has become rather popular for individuals to challenge value of property, if I offer written opinion that my house has been overvalued am I running afoul of the law
083	Riddell	no, this is an exclusion to this law
094	Bryant	there is another witness, there will be no worksession on this bill
111	Genoa Ingram-Read	Chief Lobbyist, Oregon Association of Realtors
114	Ingram-Read	EXHIBIT G
171	Ingram-Read	still explaining exhibit
211	Ingram-Read	still explaining exhibit
242	Ingram-Read	we believe that it is time to take another look at this bill
265	Derfler	what if you just use appraisals of properties up for a loan
270	Ingram-Read	that was the spirit of the federal mandate
268	Leonard	in the bill sections 2,4, and 5 give power to the board of appraisers to subpoena
305	Andrea Bushnell	Chief Legal Counsel for Oregon Realtors Association; giving the subpoena power to the board would do exactly what you talked about earlier concerning the words "in my opinion"
312	Bryant	close public hearing on SB 85; open public hearing on SB 118

**SB 118--PUBLIC HEARING
AND WORKSESSION**

317	Mary Neidig	Administrator of the Worker's Compensation Division of the Consumer and Business Department
335	Nidig	EXHIBIT I
361	Mari Miller	Manager of Dispute Resolution Section at the Workers Compensation; key points in Exhibit I
378	Miller	SB 118 supports Oregon Benchmarks for improving government's efficiency and eliminating government waste
Tape 24, B		
004	Miller	example of Jane: Jane falls at work, 3-4 weeks off she now goes back to work; closure of case; rates case, gives Jane \$20,000 in disability due to the loss of motion in her shoulder; Jane disagrees (thinks she wasn't paid enough) with this and the insurer disagrees (thinks it was too much); they would have had one chance to reconsider
022	Miller	<u>Guardado v. J.R. Simplot Co.</u> now comes into play; this states that you don't only get one reconsideration; but many in the window of sixty days, this creates an incredible amount of confusion
045	Miller	reference exhibit I--this completely explains why they support SB 118
055	Miller	summation of SB 118 is about reducing government waste
062	Sen. Derfler	intent was to have one reconsideration added
074	Brown	question for Sen. Derfler: it is your understanding that the Legislature only wanted them to have one reconsideration, why didn't the legislation say this
078	Derfler	I believe that it may not have been as clearly written as it could have been
086	Brown	why did the court of appeals rule the way they did in the 1995 case
086	Mari Miller	the opinion is that the language of the law was a bit ambiguous
106	Leonard	are there more examples of the law when additional reconsideration based on new evidence is allowed

118	Dave Amesbury	<p>there are general principles of appeal;</p> <p>while still in the fact finding stage there are some levels for reconsideration</p> <p>if there is new evidence discovered that would be another way of obtaining reconsideration, there are rules that must be followed</p>
140	Derfler	timeframe for reconsideration is important
150	Robert Moore	Lobbyist for Attorneys for Worker's Compensation
158	Randy Elmer	<p>President of Attorneys for Worker's Compensation</p> <p>testifying in opposition of SB 118</p>
163	Elmer	<p>this is taking rights away from the injured worker</p> <p>worker used to have 1 full year to make a claim, now it is 60 days</p> <p>the workers don't understand the law</p>
183	Derfler	isn't that why the injured worker's have attorneys
192	Elmer	<p>claimant is back to work and doesn't have time to deal with this, that is why they have an attorney</p> <p>the case gets put on the docket where there is room, often times the timeframe for their case is too short</p>
238	Sen. Brown	could we add in "only one reconsideration request per party"
250	Elmer	that would be an acceptable change
261	Leonard	if the employer asks for reconsideration quickly the injured party may not have time to keep up with the change of events they may miss the window of opportunity
268	Elmer	that is correct
281	Bryant	<p>there are two issues here</p> <ol style="list-style-type: none"> 1. history of how the time has been shortened by the prior legislation 2. 18 day requirement

319	Nidig	response to Sen. Brown's amendments, refer to Mari Miller for explanation
333	Mari Miller	difficulties that 2 parties might have filing a reconsideration
377	Mari Miller	95% of all reconsideration's are presented by the injured worker we have had to extend the timeframe to get things ready (past sixty days) in 6% of the cases; if a party does not have enough time we always extend this time
Tape 25, B		
003	Derfler	time frame of 18 working days to make the appeal
018	Bryant	close public hearing on SB 118; open worksession on SB 118
019	Derfler	motion "do pass"
022	Brown	will vote "no" on SB 118, but may change her vote on the floor
025	Bryant	motion carries, Derfler will carry
030	Bryant	close worksession on SB 118; open public hearing on SB 159
<u>SB 159--PUBLIC HEARING AND WORKSESSION</u>		
034	Representative Bryan Johnston	comments on SB 159; introduction of others; this bill fosters the development of dispute resolution programs that bring all involved together in everyone's best interest
067	Donna Silverberg	Interim Director of Oregon Dispute Resolution Commission
	Silverberg	EXHIBIT K
124	Silverberg	example: city of Sandy in Multnomah problem request for development came to the City Counsel and was met with a great deal of controversy it was a proposed sub-division for the city and the city members were quite upset, it made front page for weeks we were able to give them grant money to hire a mediator to help so that all parties came to an agreement and the development went forward

149	Sen. Miller	question about applying for some grant money
152	Silverberg	in 1993 the legislature put \$200,000 in grant money together that goes through the Department of Land Conservation and Development and these funds are earmarked for disputes regarding land use
160	Sen. Miller	"sounds like a pretty sweet deal"
162	Silverberg	yes, we ask for matching funds from the local government to show the local government there are different ways of doing business local government does not have to carry the entire burden
198	Mike Niemeyer	Department of Justice, ADR Coordinator Department of Justice supports this bill
		EXHIBIT L
217	Dale Blanton	Grant Program Manager for Department of Land Conservation and Development
229	Blanton	three unique elements that made the program that Donna discussed successful: 1. having this program in a state agency has made it very "positive" for those involved 2. state agency and dispute resolution working together has been positive 3. department of land conservation can be a "model" for other state agencies to work with "outside groups" in solving problems
259	Dick Angstrom	Governmental Affairs Manager for Oregon Concrete and Agrigate Producers Association we have used the mediation process and it has been extremely successful
271	Angstrom	support of SB 159
313	Bryant	close public hearing on SB 159; open worksession on SB 159
315	Miller	motion "do pass" on SB 159
325	Bryant	no objections, bill passes, carrier will be Nelson
<u>SB 203--PUBLIC HEARING AND WORKSESSION</u>		
330	Bryant	open public hearing on SB 203

335	Paul Cleary	Director of the Division of State Lands EXHIBIT M
360	Bryant	close public hearing on SB 203, open worksession on SB 203
362	Miller	motion "do pass" on SB 203
370	Bryant	no discussion, no objections, carrier: Miller
<u>SB 205--PUBLIC HEARING AND WORKSESSION</u>		
374	Bryant	open worksession on SB 205
376	Paul Cleary	Director of the Division of State Lands EXHIBIT M
380	Bryant	close public hearing on SB 205 and open worksession on SB 205
382	Miller	motion "do pass" on SB 205
384	Bryant	no discussion, no objections, carrier: Miller
<u>SB 206--PUBLIC HEARING AND WORKSESSION</u>		
012	Bryant	open public hearing on SB 206
014	Cleary	SB 206 deals with small estates EXHIBIT M
020	Marcella Easley	Administrator of Unclaimed Properties small estate is under \$140,000
022	Bryant	close public hearing on SB 206 and open worksession on SB 206
024	Miller	motion "do pass" on SB 206
026	Bryant	no discussion, no objections, carrier: Miller
<u>SB 204--PUBLIC HEARING AND WORKSESSION</u>		
015	Bryant	open public hearing on SB 204
018	Cleary	EXHIBIT M
052	Gail Ryder	Director of Government Affairs for Oregon Newspaper Publishers Association
		EXHIBIT N neutral on SB 204 raise some questions: we want to protect of the public from unscrupulous businesses that

057	Ryder	deprive owners of all that they deserve regarding abandoned property; we also want the advertising to "find" owners of unclaimed property to be completely legal and appropriate under Oregon and Federal law what happens to unclaimed property during the 24 months that the records are kept confidential; does the division really need 24 months
082	Marcella	the reason for 24 months is to give the owners time to claim their money; often people will move and it takes time to find these people, we have a number of ways of trying to find these people
124	Marcella	explaining the 24 month period
133	Cleary	while we are looking for the "owners" we deposit the money and is invested for the school children of Oregon
143	Bryant	audit of your organization
146	Cleary	we have an internal accounting system, we have also been subject to a number of Secretary of State Audits
149	Bryant	close public hearing on SB204, open worksession on SB 204
151	Miller	motion "do pass" on SB 204
155	Bryant	no discussion; no objection; Brown will carry
161	Bryant	close worksession on SB 204; open public hearing on SB 202
<u>SB 202--PUBLIC HEARING AND WORKSESSION</u>		
164	Paul Cleary	EXHIBIT M how often we publish notice of lists of owners in the newspapers; we want flexibility on how often and when we publish, we don't want to HAVE to publish two weeks in a row
189	Gail Ryder	EXHIBIT O
210	Ryder	newspaper is the single best form of advertising, but you need to advertise more than once, even twice is not enough
228	Bryant	what percent of response comes from publication
239	Marcella	40-50 percent

250	Bryant	how much will you be publishing in newspapers
260	Cleary	we would like to publish twice, but it may not be consecutive weeks
272	Bryant	close public hearing on SB 202; open worksession on SB 202
280	Leonard	let's work on wording of bill
302	Miller	main goal is to find the property owners
333	Brown	motion of "owners unclaimed accounts"; motion passes
351	Leonard	to be clear we are back to newspapers only publishing once if they so choose
Tape 27, A		
004	Leonard	motion that we allow staff to develop language and conceptually allow in line six that there will be at least 2 publications of lists of unclaimed property, but not necessarily in consecutive weeks
011	Bryant	refers to David Amesbury for wording of the amendment
020	David Amesbury	wording of bill; restoring language on line six" "to be published at least twice..."(inserting the word "twice")
025 vote taken on motion; Brown, Leonard, and Bryant all "aye"; Miller "no"; have to check committee rules to see if 3 out of 4 is a pass or fail vote		
035	Bryant	motion fails
036	Bryant	to the bill itself, move as amended (Brown's amendment) to the floor as "do pass"; no discussion, no objections; carrier: Miller
038	Bryant	adjourns meeting at 3:15pm

Submitted By, Reviewed By,

Andrea Terry, David Amesbury,

Administrative Support Counsel

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EXHIBIT SUMMARY

A - SMS for SB 47 - 1 page

B - Data Sheet for SB 47 - introduced by Paul Tiffany - 1 page

C - SMS for SB 268 - 1 page

D - Letter from Kennedy & Kennedy - introduced by Jim Kennedy - 2 pages

E - SMS for SB 85 - 1 page

F - Fact sheet from Appraiser Certification and Licensure Board - introduced by Linda Riddell (ACLB) - 1 page

G - Testimony of Genoa Ingram-Read (Oregon Association of Relators) - introduced by Genoa Ingram-Read - 14 pages

H - SMS for SB 118 - 1 page

I - Letter from Mary Neidig (Department of Consumer and Business Services) - introduced by Mary Neidig - 2 pages

J - SMS for SB 159 - 1 page

K - Testimony of Donna Silverberg on SB 159 - introduced by Donna Silverberg - 5 pages

L - Testimony of Mike Niemeyer in support of SB 159 - introduced by Mike Niemeyer - 1 page

M - Testimony of Paul R. Cleary - introduced by Paul R. Cleary - 8 pages

N - Testimony on SB 204 - introduced by Oregon Newspaper Publishers Association - 1 page

O - Testimony on SB 202 - introduced by Oregon Newspaper Publishers Association - 1 page

P - SMS for SB 202 - 1 page

Q - SMS for SB 203 - 1 page

R - SMS for SB 204 - 1 page

S - SMS for SB 205 - 1 page

T - SMS for SB 206 - 1 page
