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SENATE COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT

January 29, 1997 Hearing Room A

1:00pm Tapes 28 - 29

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 254

SB 255

SB 256

SB 269

SB 299

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 28, A		
	Chair Bryant	opens meeting at 1:04
<u>SB299--PUBLIC HEARING AND WORKSESSION</u>		
009	Bryant	SB 97 will not be heard today, they are working on amendments open public hearing on SB 299
014	John Lim	Senator from Gresham (district 11)
029	Lim	explanation of SB 299 and history of marriage
035	Ed Stelle	chaplain who married the couple; knew Jeff Shirley (the groom) for 14 years Jeff's cancer progressed very quickly
051	Ed Stelle	tried to get a license for them on the day of the wedding (June 1, 1996)
054	Ed Stelle	proceeded with wedding on June 1, 1996 and subsequently Jeff passed away that very day
062	Deborah Weinberger	Jeff and I were a couple for over seven years we purchased a home together in April 1995 we had been planning to get married in June or July 1996 and Jeff took ill very quickly
073	Weinberger	did not know there is a three day waiting period for a marriage license

080	Weinberger	32 letters of support, she brought these letter for everyone to read (EXHIBIT B)
089	Bryant	did Jeff have a will
091	Weinberger	no he did not have a will, his estate is in probate and Jeff's father is his personal representative naming Weinberger as his beneficiary as his spouse
101	Bryant	as a wife you would be entitled to the entire estate
119	Bryant	are his parents going to challenge you as his wife
121	Weinberger	no his parents view me as Jeff's wife and believe I am his beneficiary
124	Bryant	were there other benefits, such as pension, other assets
137	Deborah	sheriff's pension fund; PERS retirement fund; 4 cars (Jeff was the only one on the titles of the cars)
154	Bryant	Jeff's father hired an attorney, I will need this information
171	Bryant	will get in touch with the attorney (John Burns)
179	Bryant	close public hearing on 299
<u>SB 254--PUBLIC HEARING AND WORKSESSION</u>		
180	Bryant	open public hearing on SB 254
185	Robin Pope	Vice Chair of the Oregon State Bar Family and Juvenile Law Standing Committee on Adoption EXHIBIT C
264	Pope	discussing EXHIBIT C
		EXHIBIT D
273	Bryant	close public hearing on SB 254
276	Bryant	open worksession on SB 254
283	Sen. Brown	MOTION: Moves SB 254 to the floor with a DO PASS recommendation.
285	Bryant	no objections and Brown will carry
300	Bryant	close worksession on SB 254 and open public hearing on SB 256
<u>SB 256--PUBLIC HEARING AND WORKSESSION</u>		
305	Bailey	attorney from Portland discusses SB 256
Tape 29,B		

023	Bryant	why in terrorem clauses are valid because the person writing the will is allowed to put this in are in terrorem clauses popular
025	Bailey	no, I have seen very few of them and I often try to discourage the person whose will I am drafting from putting it in
026	Brown	why did this come now
030	Bailey	estate planning group has been looking at this for about 4 years
035	Bryant	we have no case law in trust
039	Miller	in what cases is this not enforceable
063	Bailey	if the will was clearly invalid in some way
077	Miller	in fiduciary cases if you challenge this aren't you speaking on behalf of the person making the challenge
081	Bailey	yes
087	Bryant	most frequent case would be a person acting for a minor child or for someone who is incompetent for one reason or another
091	Bailey	we looked at the word fiduciary, it is limited to acting on behalf of a protected person, so trustee does not come into that exception
094	Bryant	so even if you were a trustee for a minor it might not apply to you
098	Bryant	close public hearing on 256 open worksession 256
105	Sen. Leonard	MOTION: Moves SB 256 to the floor with a DO PASS recommendation.
111	Bryant	no objections; Bryant will carry
115	Bryant	close worksession on SB 256 open public hearing on SB 269
<u>SB 269--PUBLIC HEARING AND WORKSESSION</u>		
120	Bob Oleson	OSB; this is a housekeeping bill; EXHIBIT H
140	Brown	does this give enough geographic diversity
148	Bob Oleson	short answer is that we would go by the "regions of the state"
151	Bryant	representation would then come from these different regions
157	Bryant	close public hearing on SB 269; open worksession on SB269

159	Sen. Miller	MOTION: Moves SB 269 to the floor with a DO PASS recommendation.
161	Bryant	no objections; Miller will carry
170	Bryant	close worksession on SB 269; open public hearing on SB 255
<u>SB 255--PUBLIC HEARING AND WORKSESSION</u>		
172	Judge Rita Cobb	Chair of the Oregon State Bar Estate Planning Section
174	Cobb	EXHIBIT J
222	Cobb	explaining SB 255 using EXHIBIT J
280	Bryant	"how is the new chapter 125 working?"
285	Cobb	very well, statute makes sense
308	Bryant	close public hearing on 255 and open worksession on SB 255
316	Bryant	chair would move that SB 255 be amended in sections 5 and 6 to change the date to January 1, 1999 no discussion, no objections
318	Sen. Brown	MOTION: Moves SB 255 to the floor with a DO PASS AS AMENDED recommendation.
320	Bryant	no discussion; no objections
323	Bryant	adjourns meeting at 2:00pm

Submitted By, Reviewed By,

Andrea Terry, David Amesbury,

Administrative Support Counsel

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EXHIBIT SUMMARY

A - SMS for SB299 - 1 page

B - Letters of support for marriage described in SB 299 - introduced by Deborah Weinberger - 36 pages

C - Summary of SB 254 - introduced by Oregon State Bar - 2 pages

D - Information sheet on SB 254 - introduced by Kay Toran, Department of Human Resources - 1 page

E - SMS for SB 254 - 1 page

F - SMS for SB 256 - 1 page

G - SMS for SB 269 1 page

H - Testimony in favor of SB 269 - introduced by Oregon State Bar - 2 pages

I - SMS for SB 255 - 1 page

J - Testimony in favor of SB 255 - introduced by Judge Rita Cobb - 2 pages
