

HOUSE JUDICIARY  
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357  
8:30 am Tapes - 61

MEMBERS PRESENT:

Rep. Del Parks, Chair  
Rep. Bryan Johnston, Vice-Chair  
Rep. Chuck Carpenter  
Rep. Lisa Naito  
Rep. Eileen Qutub  
Rep. Bob Tiernan

MEMBER EXCUSED:

Rep. Kate Brown

STAFF PRESENT:

Milt Jones, Committee Counsel  
Sarah Watson, Committee Assistant

MEASURES HEARD:

HB 2616 - Work Session  
HB 2805 - Public Hearing and Work Session  
HB 2909 - Public Hearing  
HB 2625 - Public Hearing and Work Session  
HB 2993 - Public Hearing and Work Session  
HB 3265 - Public Hearing  
HB 3439 - Public Hearing and Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

006 CHAIR PARKS: Calls the meeting to order at 8:40 am

WORK SESSION ON HB 2993

009 MILT JONES, COMMITTEE COUNSEL: HB 2993 prohibits civil action for injury, death or damage if injury, death or damage occurred while person was committing felony, attempting to commit felony or fleeing scene of felony. (EXHIBITS A, B, C)

017 REP. JOHNSTON: Discusses -2 , -3, -4 amendments, EXHIBITS A, B, C.

035 CHAIR PARKS: Is there a written waiver that accompanies this?

037 MILT JONES, COMMITTEE COUNSEL: The waiver in this case is not written, it does imply informed consent however.

040 CHAIR PARKS: Would you take that as an amendment?

042 REP. JOHNSTON: Yes.

043 REP. TIERNAN: What does the amendment do?

045 REP. JOHNSTON: Discusses and explains HB 2993 -4 amendments.

061 MOTION: REP. JOHNSTON: Moves to ADOPT HB 2993-4 amendments dated 04/19/95 and that the bill be further amended on page 1, line 10, by inserting "the waiver be in writing" after "section,".

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

064 REP. JOHNSTON: Discusses -2, -3 amendments. Discusses state liability and negligence. Discusses joint and several liability.

100 CHAIR PARKS: The issue is in the concept of joint and several liability. Discusses how this bill would now work. Until the joint and several liability is changed, if the state's liability is limited to a certain amount, then companies or people who are jointly liable with the state will have to pick up the difference.

114 REP. JOHNSTON: It is unfair for the state to cast it's responsibility onto the citizens or to deprive a citizen of a recovery that they might otherwise be entitled to.

116 CHAIR PARKS: If a person is hurt by someone else other than the state, then their right to recover would be significantly different based on who caused the injury.

119 MILT JONES, COMMITTEE COUNSEL: When there isn't a second party involved, the state has a limitation on it's liability.

124 CHAIR PARKS: Do we want to think about these amendments before we vote on them?

127 REP. TIERNAN: What do the -2,-3 amendments do?

128 REP. JOHNSTON: Explains that the -2 amendments repeal and the -3 amendments increases the amounts at risk for the state.

131 REP. TIERNAN: We want to move both amendments?

132 REP. JOHNSTON: We need to chose between the -2 or -3 amendments.

134 REP. TIERNAN: I would like some time to think about this.

150 DAVE WHITE, DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT DIVISION: Testifies and submits written testimony in support of HB 2993. (EXHIBIT D)

PUBLIC HEARING ON HB 3265

247 MILT JONES, COMMITTEE COUNSEL: HB 3265 amends construction lien law.

[EXHIBIT E])

Witnesses: Jerry Van Scoy, Associated Floor Covering Contractors  
Kenneth Sherman Jr., Oregon Bankers Association  
Kim Mingo, Associated General Contractors  
Rick GrigSB y, Associated General Contractors

273 JERRY VAN SCOY, ASSOCIATED FLOOR COVERING CONTRACTORS: Testifies and submits written testimony in opposition to HB 3265. (EXHIBITS F, G)

383 MILT JONES, COMMITTEE COUNSEL: Have you had a chance to look at the -1 amendments? Those amendments might take care of your concerns.

390 VAN SCOY: Discusses -1 amendments and that his organization approves of them.

TAPE 58, SIDE A

032 REP. JOHNSTON: You think that the homeowner would lose the right to notice? I read the amendments that in addition to the notice of the owner, you would now be giving it to the original contractor. Therefore, they would not lose their notice, someone else would also get notice.

037 VAN SCOY: I don't understand your question.

037 REP. JOHNSTON: Why do you fear that the residential site owner would lose notice?

039 VAN SCOY: Discusses example of construction job with sub-contractors. Right now, these people will have to give a notice of a right to lien to the owner of the property.

044 REP. JOHNSTON: They would also under this amendment.

045 VAN SCOY: No, they wouldn't. This eliminates the notice, explains and gives example.

065 KENNETH SHERMAN JR., OREGON BANKERS ASSOCIATION: Testifies and submits written testimony in support of HB 3265. (EXHIBIT H) Discusses -1 amendments.

246 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS: Testifies and submits written testimony in support of HB 3265. (EXHIBIT I)

315 REP. JOHNSTON: If we take out the amendment about the notice to homeowners, is it going to be harder for small contractors to get paid?

324 SHERMAN: I don't think so, explains that the law now requires them to give notice in the residential setting.

331 REP. JOHNSTON: Their concern is with the notice of commencement?

332 SHERMAN: That notice is now gone in the -1 amendments, explains.

339 REP. JOHNSTON: It doesn't change much and it's better because two people are getting notice?

340 SHERMAN: Yes. Two people are getting notice and we are applying the same notice requirement to commercial construction projects as we now to residential.

346 RICK GRIGSB Y, ASSOCIATED GENERAL CONTRACTORS: Testifies in support of HB 3265.

TAPE 57, SIDE B

PUBLIC HEARING ON HB 2625

048 MILT JONES, COMMITTEE COUNSEL: HB 2625 abolishes district courts on July 1, 1995. Discusses -11 amendments. (EXHIBITS J, K, L)

Witnesses: Bill Linden, Oregon Judges Association  
Kingsley Click, State Court Administrator

052 CHAIR PARKS: This bill will go from this committee to Ways and Means.

066 BILL LINDEN, OREGON JUDGES ASSOCIATION: Testifies and submits written testimony in support of HB 2625. (EXHIBIT M)

070 KINGSLEY CLICK, STATE COURT ADMINISTRATOR: Testifies in clarification to HB 2625 -11 amendments.

105 REP. QUTUB: Asks about the fees.

108 CLICK: Discusses that with consolidation under the present bill, all fees would be circuit court level fees, that would allow us to preserve that level of fees.

112 REP. QUTUB: Until that time, they will be charged the higher circuit court fees?

114 CLICK: Until that time, everything is status quo until January 15, 1998

which would include the fees. In the 1997 legislative assembly, there could be other adjustments and corrections that still might need to be made

concerning consolidation.

120 REP. TIERNAN: Is anyone opposed to this bill and it's changes?

121 CLICK: Not to my knowledge. There were concerns to the original bill, but the -11 amendments were to ease all of those concerns that we were aware of.

127 MOTION: REP. PARKS: Moves to ADOPT HB 2625-11 amendments dated 04/20/95.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

128 LINDEN: Discusses -10 amendments.

173 CHAIR PARKS: The adjustment is made in the percentage of their final salaries that they are able to receive. How are the economical incentives computed?

177 LINDEN: Explains different plans that the judges are eligible for upon retirement.

201 CHAIR PARKS: But they don't get paid by the state when they are working the extra 35 days?

202 LINDEN: Their services are free unless there are travel expenses, etc., which wouldn't happen very often.

206 REP. NAITO: What would the differential be in terms of yearly dollars of increased benefits?

209 LINDEN: At the average age of retiring, they were retiring at about fifty-seven percent of their average salary, which is about 20 years of service. Discusses how 20 years of service would be different under plan B. The final salary calculation has no average, it is individually calculated. Explains capping of salaries upon retiring after a certain numbers of years of work.

230 CHAIR PARKS: Discusses why he supports the bill and how it benefits for the state.

236 LINDEN: Continues with explanation of -10 amendments.

315 MILT JONES, COMMITTEE COUNSEL: Do these changes in any way conflict with the redistricting in the -11 amendments?

318 LINDEN: No, they mesh in with the -11 amendments. Continues with explanation of -10 amendments.

396 REP. NAITO: Can all of those fees be waived if a party does not have the funds?

399 LINDEN: Yes, explains.

403 REP. NAITO: Asks about a judge taking a leave of absence, and how that would effect the rate of their retirement.

411 LINDEN: Correct.

413 REP. QUTUB: Asks about putting a time limit on section 138, 2.

417 CHAIR PARKS: The idea was that a person would have unlimited for one year and then after that, they would pay \$45. Do you like the one year provision better?

421 REP. QUTUB: Yes.

422 CHAIR PARKS: That will be a conceptual amendment.

423 LINDEN: Discusses section 144 of -10 amendments.

TAPE 58, SIDE B

022 CHAIR PARKS: Does everyone understand these amendments? Explains how these amendment would work.

037 REP. JOHNSTON: Is there a way to include indigent defense costs in that?

039 CHAIR PARKS: I would prefer not to do that now, explains. This is kind of a test to see how this process will work, discusses implementation of amendments. Discusses a motion to move the bill with amendments.

048 REP. JOHNSTON: Do they include Rep. Qutub's amendments?

050 CHAIR PARKS: Yes, they should include the provision of section 138, concerning "the forty-five dollar fee is not collected until one year after the dissolution".

054 MOTION: REP. PARKS: Moves to ADOPT HB 2625-10 amendments dated 04/19/95 and that HB 2625-10 be further amended on page 12, line 27, by inserting "the forty-five dollar fee is not collected until one year after dissolution".

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

057 MOTION: REP. PARKS: Moves HB 2625 AS AMENDED to the full committee with a DO PASS recommendation and with a SUBSEQUENT REFERRAL to the committee on Ways and Means.

063 REP. NAITO: Asks about the net of the percentage to be shared.

068 CHAIR PARKS: That is left blank for the Ways and Means committee to consider.

070 REP. NAITO: It looked like all of the moneys were deposited into a special account, that should be cleaned up.

073 CHAIR PARKS: Yes, it needs to be cleaned up.

VOTE: 6-0 MOTION PASSES  
AYE: Carpenter, Johnston, Naito, Qutub, Tiernan, Parks  
NO: None  
EXCUSED: Brown

082 REP. TIERNAN: Asks about HB 2993 and the fiscal impact and if that bill should also be referred to Ways and Means.

086 CHAIR PARKS: If we pass those amendments, then yes.

WORK SESSION ON HB 2805

088 MILT JONES, COMMITTEE COUNSEL: HB 2805 specifies administrative authority of Chief Justice of Supreme Court over courts of state operating under Judicial Department. (EXHIBIT N)

101 MOTION: REP. PARKS: Moves to ADOPT HB 2805-1 amendments dated 04/20/95.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

103 MOTION: REP. PARKS: Moves HB 2805 AS AMENDED be sent to the full committee with a DO PASS recommendation.

VOTE: 5-0 MOTION PASSES  
AYE: Carpenter, Johnston, Naito, Tiernan, Parks  
NO: None  
EXCUSED: Brown, Qutub

WORK SESSION ON HB 3439

(HB 3439 creates mandatory minimum sentences for listed crimes. [EXHIBIT O])

115 CHAIR PARKS: Discusses HB 3439 and amendments.

128 MARK MCDONNELL, DEPUTY DISTRICT ATTORNEY: Testifies in support of and discusses proposed -1A amendments to HB 3439, EXHIBIT O.

176 CHAIR PARKS: What are the procedural aspects?

177 MCDONNELL: The handling of the lessor crimes. As of this date, we only have three cases so I don't know if it is that large of a problem.

184 CHAIR PARKS: That might be a problem if you try to make it retroactive.

185 MCDONNELL: I don't want to cause a problem with the bill.

187 MOTION: REP. TIERNAN: Moves to ADOPT HB 3439-1A amendments dated 04/19/95.

194 REP. JOHNSTON: Objects to the motion. Cites objection to pages 4-8, explains.

212 VOTE: 4-2 MOTION PASSES  
AYE: Carpenter, Qutub, Tiernan, Parks  
NO: Johnston, Naito  
EXCUSED: Brown

224 MOTION: REP. TIERNAN: Moves HB 3439 AS AMENDED be sent to the full committee with a DO PASS recommendation.

VOTE: 5-0 MOTION PASSES  
AYE: Carpenter, Naito, Qutub, Tiernan, Parks  
NO: Johnston  
EXCUSED: Brown

WORK SESSION ON HB 2616

240 MILT JONES, COMMITTEE COUNSEL: HB 2616 authorizes owner of private

property to dispose of vehicles abandoned on the property under specified circumstances. (EXHIBIT P)

252 REP. JOHNSTON: Cites that there was one word left out of the -5 amendments. Discusses wording of conceptual amendment would effect section

1, and part of section 2, insert "agent, "on page 1, line 6, after "owner" and before "person. "Agent" would appear six other times after "owner" throughout sections 1 and 2.

266 MOTION: REP. JOHNSTON: moves to AMEND HB 2616 by inserting "agent," after "owner" on page 1, line 6 of the bill, and by inserting "agent," after "owner" six other times throughout sections 1 and 2 of the bill.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

269 MOTION: REP. JOHNSTON: Moves to ADOPT HB 2616-5 amendments dated 04/19/95 AS AMENDED.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is excused.

272 MOTION: REP. JOHNSTON: Moves HB 2616 AS AMENDED be sent to the full committee with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES  
AYE: Carpenter, Johnston, Naito, Qutub, Tiernan, Parks  
NO: None  
EXCUSED: Brown

#### PUBLIC HEARING ON HB 2909

325 MILT JONES, COMMITTEE COUNSEL: HB 2909 requires notification of next of kin prior to performing autopsy or retaining body parts of decedent. (EXHIBIT Q)

343 MARTI ENROTH, SELF: Testifies and submits written testimony in support of HB 2909. (EXHIBIT R)

TAPE 59, SIDE A

005 REP. TIERNAN: This bill is rather straight forward, can we vote on it now?

008 CHAIR PARKS: I'd like to let the medical examiner testify.

013 MILT JONES, COMMITTEE COUNSEL: Cites Rep. Browns amendment, EXHIBIT Q.

020 VIOLET ALMON, SELF: Testifies in support of HB 2909.

065 CHAIR PARKS: Asks about legislative fiscal impact.

068 MILT JONES, COMMITTEE COUNSEL: I have not received a fiscal impact on this.

072 DR. LARRY LEWMAN, OREGON STATE MEDICAL EXAMINER: Testifies and submits written testimony in opposition to HB 2909. (EXHIBIT S)

081 CHAIR PARKS: Can you summarize your testimony?

086 LEWMAN: Summarizes written testimony. Explains two types of autopsy's done.

104 CHAIR PARKS: What is the big problem with notifying the family?

106 LEWMAN: Explains that there are 3,000-4,000 of these examination done that people would have to be notified on a year. Many times when an examination starts, the doctor doesn't know what they will have to do.

115 CHAIR PARKS: What is the problem with notifying the family? Cites police finding next of kin when a decedent is found.

120 LEWMAN: That is true in a non-medical examiner autopsy, it isn't true in the medical examiner world. People may be difficult to find after someone in their family dies.

124 CHAIR PARKS: Maybe we could satisfy your concern my an amendment that you "take all steps reasonable" to notify the next of kin.

132 LEWMAN: We already do that.

133 CHAIR PARKS: Then it wouldn't be a problem if we put that in the law, to require you to do that. How did this woman not know that you had her huSB and's body parts?

136 LEWMAN: I wasn't involved in that case.

140 REP. TIERNAN: I am finding a big gap between what the public wants done and the medical examiners testimony. Cites language out of EXHIBIT S.

149 LEWMAN: The extent of training a person goes through to do this kind of work is because it is a very complicated business. People who go through all of this training don't expect to be told to practice sub-standard medicine.

154 REP. TIERNAN: How does that relate to informing people about what is happening to the decedents body?

157 LEWMAN: As the investigation develops, these decisions are made. You can't in the middle of a case, find someone to tell them what you are going to do.

161 REP. JOHNSTON: The bill authorizes you to do what you deem necessary and if a delay will unduly interfere with your investigation, you still have the permission under the bill to do it. We are discussing when delay is not a problem, explains.

166 LEWMAN: The bill uses the word "possible". That violates the intent of the law, although it may be technically legal.

169 REP. JOHNSTON: Are you suggesting that we not rely upon the good faith of your offices?

171 LEWMAN: In what way?

172 REP. JOHNSTON: Cites language of bill. We are willing to trust you and the district attorney's for the state, are you not willing to extend that trust?

175 LEWMAN: I don't see any point for the law.

179 DALE PENN, MARION COUNTY DISTRICT ATTORNEY: Testifies on HB 2909. I believe the bill is over broad, explains.

206 REP. NAITO: My concern is that a lot of people don't know what is being done to the decedents. If it isn't a criminal matter, why aren't these body parts routinely returned to the body or the family?

216 PENN: The retention of the body part is a medical decision. Most of



the time in non-criminal autopsies, the reason there is an autopsy is because you don't know what caused death. They don't know ahead of time, what they may need to retain.

237 REP. NAITO: It may be a medical decision, but it also may be a social determination that we need to chose here. I don't know that societies interest is served once it is determined that there is no wrong doing as a cause of death.

247 PENN: Most of the time there are no outward signs as to the cause of death. Gives case examples. It is not infrequent where six months later in determining reports, we find things as to what the cause of death was.

281 REP. JOHNSTON: Would your current policy change have impacted the case that brought this matter to us?

284 PENN: The difficulty we have with this statute is that it sets up a legal procedure.

287 REP. JOHNSTON: What would "your" policy have been in this case?

288 PENN: This isn't the issue of ordering an autopsy, this would then say "notice of retaining".

296 REP. JOHNSTON: Ignore the statute, how would your policy respond to this case that brought this matter to our attention?

299 PENN: We would have made certain that the family knew that an autopsy "may" result in the retention of body parts. At the conclusion of an autopsy, if retention of the heart was not necessary, that probably wouldn't have occurred. Cites case example.

316 REP. JOHNSTON: Your position is that we can meet our societal needs of investigation and honor the culture of our society if we take a different approach than that of which we are considering?

320 PENN: Yes. Sensitivity has been done state wide and can be done through the medical examiner's office rather than by statute.

327 REP. JOHNSTON: If we wanted to, we could insure that this process was applied state wide by incorporating a reference to it in the statute.

334 RABBI GARY SCHOENBURG, OREGON BOARD OF RABBI'S: Testifies in support of HB 2909.

411 CHAIR PARKS: Rep. Tiernan will form a work group on this bill and it will be heard again next week. We are recessing the hearings until four o'clock.

427 CHAIR PARKS: Recesses the hearing at 11:00 am., until 4 pm.

Re-opens the hearing at 5:15 pm.  
TAPE 59, SIDE B

CONTINUATION OF PUBLIC HEARING ON HB 2993

Witnesses: Ingrid Swenson

008 INGRID SWENSON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies in opposition to the original content of HB 2993.

036 CHAIR PARKS: If you wanted to keep the felons in, but wanted to eliminate those kind of lessor felonies, how would you do that?

039 SORENSON: I understand that there is fairly limited objective in terms of preventing certain kinds of civil actions. That can be addressed by the relationship between the crime being committed and the person who does the injury.

047 CHAIR PARKS: Would you like to draft an amendment and get back to us?

048 SORENSON: I will make an effort.

050 CHAIR PARKS: What do you think about the constitutionality of the requirement, of a remedy for a wrong?

052 REP. JOHNSTON: Her testimony is accurate. There are limited exceptions that we could craft. Gives example of being able to accomplish the intent of civil action.

059 MILT JONES, COMMITTEE COUNSEL: There are those cases that fall in between, gives examples. This bill is currently in four pieces, explains.

073 DAVID FIDANQUE, ACLU OF OREGON: Testifies and submits written testimony in opposition to HB 2993. (EXHIBIT T)

094 KEVIN HANWAY, SPECIAL DISTRICTS ASSOCIATION OF OREGON: Testifies on HB 2993 in opposition to the -3 amendments.

127 REP. JOHNSTON: You estimated that in the past year you paid about a million dollars in damages, how was that estimate arrived at?

129 HANWAY: I don't.

130 REP. JOHNSTON: Would it be fair to assume that about one million dollars is what the plaintiffs currently did not get compensated for, from accidents caused in special districts over the past year?

133 HANWAY: That would be a safe assumption.

134 CHAIR PARKS: There is a philosophy issue in all of this. Why do we treat the government different than we treat the power company or someone else? If the issue is to compensate people for injuries, maybe we need to limit that. Why should the government be different?

145 REP. QUTUB: What kind of injuries are we talking about?

146 CHAIR PARKS: Any kind, explains.

154 BILL BLAIR, ASSISTANT CITY ATTORNEY OF SALEM: Testifies on HB 2993. This issue has been before the legislature since 1973. Discusses amendments.

200 CHAIR PARKS: What is your exposure on a per claim basis?

201 BLAIR: With the law unchanged, our limit is \$50,000 property damage, maximum \$200,000 for any other claims per individual and \$500,000 aggregate of all claims for occurrence.

205 CHAIR PARKS: You now buy insurance claims in excess to your liability. Why do you buy excess insurance?

211 BLAIR: Sometimes our employees are out of state, gives example.

223 CHAIR PARKS: If this bill passes why wouldn't you say that it is a policy issue of Salem to buy insurance for the liabilities in excess of what the new amount is?

227 BLAIR: For Salem, it is a premium cost. I know that the premium cost for cities under the -3 amendments would be \$3 million a year and \$2 million a year for counties. That money would be the extra that would be plugged into the premium base to deal with these amendments.

244 REP. JOHNSTON: How long has \$100,000 been the limit?

248 BLAIR: It was changed once in 1987, but before that the standard had been the same since 1969.

266 REP. JOHNSTON: We have been at this limit for eight years?

267 BLAIR: Correct.

268 REP. JOHNSTON: How often is the city a co-defendant in tort cases?

271 BLAIR: Maybe 20 percent of the time.

273 REP. JOHNSTON: What percentage of your cases run into a tort case limit, as a resolution either ordered or agreed upon for a case?

279 BLAIR: We have never pierced the limits in a judgment. We have never settled to the limits.

282 REP. JOHNSTON: You have never been ordered to pay a judgment that required you to defend you limits?

283 BLAIR: Correct. We have had three cases in which we were concerned about being them being a tort claims act. We settled all of those cases at a figure substantially below the tort limit.

291 REP. JOHNSTON: What about in the co-defendant cases, you have never had to pay the limit?

292 BLAIR: Correct, except for 1983 cases.

295 CHAIR PARKS: When a state driver has an accident, is the driver liable in addition to the city being liable?

298 BLAIR: Not according to the Oregon tort claims act. When that person is acting in the course and scope of official duties, that person cannot be named as a defendant to the case, but instead the city must be named.

302 CHAIR PARKS: If I had an employee that caused an accident, both my employee and myself would be responsible.

307 BLAIR: Yes, in the real world the insurance provided covers the employees actions.

310 CHAIR PARKS: Whether there is insurance or not, the employee and employer are jointly and severely liable. In municipalities we have a special rule that makes the employee immune from suit and only the employer liable.

317 BLAIR: Yes, with the three exceptions.

319 CHAIR PARKS: Is that because most state other than Oregon, treat their citizens with greater protection under their tort claims act?

324 BLAIR: I don't know. In the late 80's there were states that had tighter limits than those provided in Oregon, but some had none at all.

331 REP. JOHNSTON: Salem is a municipality without responsibility for the hospitals?

333 BLAIR: Correct.

336 HANWAY: The information on the million dollar costs relates to additional premiums and not to additional damages.

352 PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES: Testifies on HB 2993.

399 REP. JOHNSTON: What is the big ticket item for county tort liability?

404 SNYDER: It may have to do with police, roads, bridges, etc.

408 REP. JOHNSTON: Do you know of any counties that have bumped upon the limit in this past year on any cases?

414 SNYDER: I don't know.

418 LOIS DAVIS, OREGON HEALTH SCIENCE UNIVERSITY (OHSU): Testifies on HB 2993.

TAPE 60, SIDE A

025 REP. JOHNSTON: How many cases have you run up against the tort limit on?

026 DAVIS: I don't know, but will get the answer for you.

027 REP. JOHNSTON: You are more the target of this bill than anyone else in the state, explains. Currently, your physicians can do a procedure at another hospital and still be covered under the Oregon tort claims practice act.

034 DAVIS: They do have additional coverage when they are at other facilities.

038 DAVE WHITE, RISK MANAGEMENT DIVISION: Testifies on HB 2993. We provide, in order to facilitate doctors, a policy or coverage for that hospital, explains. Explains what would happen in a jointly liable doctor and hospital case.

049 REP. JOHNSTON: Several liability would change that wouldn't it? The hospital would be responsible only for it's contribution to the tort itself, gives example.

057 WHITE: We never see a two hundred thousand dollar limit, there are always other amounts, explains. But otherwise, you are right. Gives special circumstances. We are ready now to adjust with that and OHSU, if SB 2 was enacted, is prepared to continue with that same kind of process.

074 CHAIR PARKS: If SB 2 was enacted, would the tort claims limit apply to OHSU?

076 DAVIS: Yes, we would still be a public agency.

078 MILT JONES, COMMITTEE COUNSEL: Does this give you a competitive advantage?

080 WHITE: If you are competing in the private sector, this is an advantage, explains.

087 MILT JONES, COMMITTEE COUNSEL: I was thinking of OHSU and it's competition with other Portland hospitals.

088 DAVIS: If we were to be placed on an even playing field, that might be the case. We take with us our public mission and our public obligation. We are still providing tens of millions of dollars of indigent care and above and beyond that, we have the state poison center, explains. We provide health care services plus all of these other public services activities.

104 CHAIR PARKS: In the reality though, almost all major hospitals in Oregon receive funds and have the same obligation in having accepted those funds, to provide public services.

108 DAVIS: There is an implied obligation to provide community service. OHSU provides three times that of all the other hospitals in the metropolitan area.

112 CHAIR PARKS: Other hospitals in the state do a substantial amount of public service too.

115 DAVIS: That is correct. We also do a lot of public service activities with those facilities and take referrals for them to assist them in that activity.

118 CHAIR PARKS: You folks are the problem, because there aren't many small problems with surgery. If the tort system doesn't produce the revenues, ultimately the public pays for the person for their lifetime.

125 WHITE: OHSU has to be the focus, explains. The Department of Justice asked me to put on the record that the Attorney General opposes both of the amendments.

133 REP. JOHNSTON: I would ask to withdraw the -3 amendments, but not yet the -2 or -4.

142 DAVIS: The only question that occurs to me is that we provide a lot of voluntary care. What I am uncomfortable with is a two tier system. There are some people who only pay part of their bills, explains. Discusses the Oregon Health Plan.

163 MILT JONES, COMMITTEE COUNSEL: The original bill and the -4 amendments have been adopted.

181 HARRY AUERBACH, DEPUTY CITY ATTORNEY FOR PORTLAND: I am glad that he has withdrawn the -2 amendments, those were our main concern. Testifies on HB 2993.

204 REP. JOHNSTON: Are civil cases part of your responsibility?

205 BECK: Yes.

205 REP. JOHNSTON: Do you know how many times you have bumped up against the limit?

206 BECK: We had one verdict that exceeded the tort limits. I do not know how that impacted the claims that might have been settled out of court. Discusses and gives court case examples.

CONTINUATION OF PUBLIC HEARING ON HB 3265

Witness: Tom Murphy, Power Rents

255 TOM MURPHY, POWER RENTS: Testifies and submits written testimony in opposition to HB 3265. (EXHIBIT U)

352 REP. JOHNSTON: The consumer protection aspects and the notice of commencement are going to out of the bill.

360 MURPHY: Continues with testimony.

TAPE 61, SIDE A

035 REP. JOHNSTON: Your opinion is that you don't understand what they are trying to do?

036 MURPHY: My view is that it is an attempt to add an additional layer of complexity and requirements to the construction of lien rights, so that more liens will be lost.

050 REP. JOHNSTON: Adjourns the hearing at 6:15 pm.

Submitted by, Reviewed by,

Sarah Watson      Debra Johnson  
Committee Assistant      Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments to HB 2993 - Staff - 6 pages
- B. Proposed Amendments to HB 2993 - Staff - 2 pages
- C. Proposed Amendments to HB 2993 - Staff - 3 pages
- D. Proposed Amendments to HB 2993 - Dave White - 2 pages
- E. Proposed Amendments to HB 3265 - Staff - 5 pages
- F. Testimony on HB 3265 - Jerry Van Scoy - 1 page
- G. Testimony on HB 3265 - Jerry Van Scoy - 2 pages
- H. Testimony on HB 3265 - Ken Sherman - 8 pages
- I. Testimony on HB 3265 - Kim Mingo - 1 page
- J. Proposed Amendments to HB 2625 - Staff - 13 pages
- K. Memo to HB 2625 - Staff - 1 page
- L. Proposed Amendments to HB 2625 - Bill Linden - 1 page
- M. Proposed Amendments to HB 2625 - Staff - 19 pages
- N. Proposed Amendments to HB 2805 - Staff - 44 pages
- O. Proposed Amendments to HB 3439 - Mark McDonnell - 2 pages
- P. Proposed Amendments to HB 2616 - Staff - 20 pages
- Q. Proposed Amendments to HB 2909 - Staff - 1 page
- R. Testimony on HB 2909 - Marti Enroth - 5 pages
- S. Testimony on HB 2909 - Larry Lewman - 5 pages
- T. Testimony on HB 2993 - David Fidanque - 2 pages
- U. Testimony on HB 3265 - Tom Murphy - 5 pages
- V. Testimony on HB 3265 - Sherry Grapp - 1 page
- W. Testimony on HB 3265 - Irvin Dellinger - 1 page
- X. Testimony on HB 2909 - Michael Mason - 1 page
- Y. Testimony on HB 2909 - David Nebel - 1 page