

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357
8:30 am Tape

MEMBERS PRESENT:

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

MEMBER EXCUSED:

Rep. Eileen Qutub

STAFF PRESENT:

Milt Jones, Committee Counsel
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 85 - Public Hearing and Work Session
SB 86 - Public Hearing and Work Session
SB 157 - Public Hearing and Work Session
SB 240 - Public Hearing and Work Session
SB 268 - 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

004 REP. JOHNSTON: Calls the meeting to order at 8:40 am.

PUBLIC HEARING ON SB 157

(SB 157 exempts from public records laws certain agribusiness company data used by State Department of Agriculture in economic development activities [EXHIBIT A])

Witnesses: Rep. Kevin Mannix, District 32
Phil Ward, Oregon Department of Agriculture

007 REP. KEVIN MANNIX, DISTRICT 32: Testifies in support of SB 157.
Encourages the -2 amendments, EXHIBIT A.

029 REP. BROWN: Do the proponents have any objections to your amendment?

030 REP. MANNIX: As long as the amendments don't hinder their bill, they have no objection.

031 REP. NAITO: Would it be preferable to allow the keeping records private

upon request?

035 REP. MANNIX: Discusses provisions for special authorizations. The problem would be the record keeping requirement for the librarians, explains. Discusses that some systems are computerized and some aren't, which would make a difference.

044 REP. NAITO: In Portland, the library computers are on line. If you had specific information, you could get into a persons file. Would there be any kind of liability if the records were not blocked?

051 REP. MANNIX: There are some general provisions in the law protecting government agencies if they are acting in good faith. This bill would lock in with the general provision.

056 REP. BROWN: Did this come to your attention through an incident, or are you just trying to stay a step ahead?

058 REP. MANNIX: In the work on domestic violence and stalking, two victims stated that their perpetrator had gotten the information on them from the library.

064 MOTION: REP. NAITO: Moves to ADOPT SB 157-2 amendments dated 04/17/95.

VOTE: Hearing no objections the amendments are ADOPTED.

073 PHIL WARD, OREGON DEPARTMENT OF AGRICULTURE: Testifies and submits written testimony in support of SB 157. (EXHIBIT B)

086 REP. NAITO: These are lists that are generated, not by you, but by an interested party coming to you?

088 WARD: Explains that they may be working with a specific company that wants to market a product overseas. Explains that their department is paid for helping develop a marketing strategy.

094 REP. NAITO: There is a distinction between the types of lists compiled by the government. When the public comes to the government for help, I don't see the interest in it being public information. These people have come to you, you are not out there making lists about these various businesses.

102 WARD: That is exactly the case.

105 MOTION: REP. BROWN: Moves SB 157 AS AMENDED be sent to the full committee with a DO PASS recommendation.

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

PUBLIC HEARING ON SB 268

127 MILT JONES, COMMITTEE COUNSEL: SB 268 allows trustee to establish existence and terms of trust with certification of trust.

Witnesses: Frank Brawner, Oregon Bankers Association

Jonathan Levy, US Bank Corp. Law Division
Ron Bailey, Oregon State Bar

130 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies in support of SB
268.

134 JONATHAN LEVY, US BANCORP LAW DIVISION: Testifies and submits written
testimony in support of SB 268. (EXHIBIT C)

191 RON BAILEY, ESTATE PLANNING SECTION OF THE OREGON STATE BAR: Testifies
in support of SB 268.

WORK SESSION ON SB 268

207 MOTION: REP. JOHNSTON: Moves SB 268A be sent to the full committee
with a DO PASS recommendation.

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

PUBLIC HEARING ON SB 240

(SB 240 specifies charges and expenses that do not constitute voluntary
reduction of principal of endowment care trust.)

Witness: Frank Brawner, Oregon Bankers Association

217 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies and submits
written testimony in support of SB 240. (EXHIBIT D)

237 REP. NAITO: What are these endowed care funds?

239 MILT JONES, COMMITTEE COUNSEL: They are trusts that are used for the
administration and endowment care of cemeteries.

240 REP. NAITO: The cemetery facility, or for an individual who will be
buried there?

242 BRAWNER: Explains that several sessions ago, there were scandals
concerning these types of funds. The statute is very specific now as to
how the funds can be invested, and who answers to who. It is prepayment
for care of the cemetery more than the funeral expenses.

250 REP. NAITO: You are talking about those people who are in receipt of
those funds and that this statute would govern their actions?

252 BRAWNER: Correct.

253 REP. NAITO: This bill will allow the person that holds these funds to
sell them to realize interest? But if they sell them, wouldn't the person
be at risk of losing their cite?

258 BRAWNER: The prudent person rule is now used on the investment of the
funds. Gives example of investment and explains how the statute would now
effect a situation.

WORK SESSION ON SB 240

279 MOTION: REP. BROWN: Moves SB 240 be sent to the full committee with
a DO PASS recommendation.

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

PUBLIC HEARING ON SB 86

(SB 86 increases amount of owed money that state agency may pay directly to survivors of decedent from \$1000 to \$10,000.)

Witnesses: Frank Brawner, Oregon Bankers Association
Mark Hays, Commercial Bank Trust Officer

287 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies in support of SB
86.

290 MARK HAYS, COMMERCIAL BANK TRUST OFFICER: Testifies and submits written
testimony in support of SB 86. (EXHIBIT E)

348 REP. NAITO: Are we only talking about when there is not will involved?

352 HAYS: A person could have a will or not, explains differences.

358 MILT JONES, COMMITTEE COUNSEL: The distribution would be made if there
is a will, explains.

363 REP. NAITO: Why is the trustee second after the surviving spouse? Why
not put the trust provisions first?

369 HAYS: It was put like that, so that it would go to the surviving
spouse. If there was no spouse, the trust would be in place, explains what
would then happen. Explains and discusses prior statutes concerning this
issue.

382 BRAWNER: The rationale is, that under every circumstance, the priority
ought to be the surviving spouse, usually. Our big concern is the living
trust be mentioned in the priority.

398 CHAIR PARKS: How much is the jurisdictional limit on small estates?

403 HAYS: For financial assets, it is \$25,000. For real property it is
\$60,000. A combination of the two is \$60,000.

WORK SESSION ON SB 86

411 MOTION: REP. JOHNSTON: Moves SB 85 be sent to the full committee
with a DO PASS recommendation.

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

PUBLIC HEARING ON SB 85

(SB 85 clarifies seller's property disclosure and disclaimer law
exclusion.)

Witness: Frank Brawner, Oregon Bankers Association

421 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies and submits
written testimony in support of SB 85. (EXHIBIT F)

449 REP. NAITO: You are not covered under subsection 3 on trustees now?

454 BRAWNER: It is not clear.

456 REP. NAITO: The intent was to clearly cover your situation.

457 BRAWNER: I believed that when we exempted financial institutions that
we were exempt, but we aren't.

WORK SESSION ON SB 85

463 MOTION: REP. JOHNSTON: Moves SB 85 be sent to the full committee
with a DO PASS recommendation.

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

480 CHAIR PARKS: Adjourns the hearing at 9:10 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments to SB 157 - Staff - 10 pages
- B. Testimony on SB 157 - Phil Ward - 1 page
- C. Testimony on SB 268 - Jonathan Levy - 15 pages
- D. Testimony on SB 240 - Frank Brawner - 6 pages
- E. Testimony on SB 86 - Mark Hays - 4 pages
- F. Testimony on SB 85 - Frank Brawner - 2 pages