

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357
8:30 am Tapes - 71

MEMBERS PRESENT:

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

STAFF PRESENT:

Milt Jones, Committee Counsel
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 79 - Public Hearing
SB 362 - Public Hearing
SB 373 - Public Hearing and Work Session
SB 422 - Public Hearing and Work Session
SB 424 - 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. BROWN: Calls the meeting to order at 8:32 am

PUBLIC HEARING ON SB 79

(SB 79 repeals retroactive application of statute providing that domestic relations property judgment ordering future payment of money does not expire until 10 years after date on which future payment is due.)

Witnesses: Frank Brawner, Oregon Bankers Association
Kevin Hanway, Oregon Land Title Association
Rob Lowe, Oregon Land Title Association
Lawrence Gorin, Attorney
John Ellis, Support Enforcement Division

016 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies and submits written testimony in support of SB 79. (EXHIBIT A)

041 REP. NAITO: How will the reinstatement work?

044 BRAWNER: No one, last session, believed that we were going to open up these judgments.

054 KEVIN HANWAY, OREGON LAND TITLE ASSOCIATION: Testifies in support of SB 79.

063 ROB LOWE, OREGON LAND TITLE ASSOCIATION: Testifies in support of SB 79.
Discusses claims of judgments that were revised under the bill from last session.

068 CHAIR PARKS: Do you do a claim analysis when a claim like that comes up?

070 LOWE: There is an analysis of any claims that comes in. Discusses that they are interested whether or not there is a lien on property that will take priority over a buyer, or lender who's trustee we've insured. We have denied claims on the basis that it is our legal opinion, collectively, that the retroactively is unconstitutional.

078 CHAIR PARKS: I would like a copy of that. (inaudible statements)

083 REP. BROWN: Discusses that the committee dealt last session with the Hernandez case and how it related to SB 251.

Mike McCallum, Oregon Restaurant Association
Jack Schwab, Northwest Medical Teams
Doug Rawlins, Northwest Medical Teams

284 REP. JOHNSTON: I requested an amendment from Legislative Counsel that is not here. Discusses amendment.

307 STEPHEN KAFOURY, ARCHITECTS COUNCIL OF OREGON: Testifies in support of SB 362.

339 CLAYTON VORSE, ARCHITECTS COUNCIL OF OREGON: Testifies in support of SB 362.

369 CHAIR PARKS: What about the inspectors?

371 VORSE: There is a large industry in Oregon of inspectors that are certified. Their type of expertise is much more technical than an architect would be. They can inspect for structural damage and also damage to the heating or cooling system.

410 VICKI MCCLAIN, BUILDING CODES DIVISION: Testifies in reference to previous questions about inspectors. Discusses example of earthquake and requirements under ORS 455.

423 CHAIR PARKS: The inspectors wouldn't be doing it for free?

425 MCCLAIN: Our inspectors would be charging a fee. However, there are a number of people in the post-evaluator group that may be retired and would not be reimbursed. It is those people's liability that we are concerned about.

TAPE 71, SIDE A

007 MIKE MCCALLUM, OREGON RESTAURANT ASSOCIATION: Testifies and submits -2 amendments and written testimony in support of SB 362. (EXHIBITS F, G)

030 JACK SCHWAB, NORTHWEST MEDICAL TEAMS: Testifies and submits written testimony in support of SB 362. (EXHIBIT H)

093 CHAIR PARKS: You have insurance on these people now?

094 DOUG RAWLINS, NORTHWEST MEDICAL TEAMS: Testifies in support of SB 362.

Currently, dentists and the few doctors we have, use their own malpractice insurance. Explains difficulties, problems, and need for the bill.

100 CHAIR PARKS: Do you have continuing legal education requirements for dentist and doctors? Doesn't a person have to do so many hours of continuing education to keep their license?

103 RAWLINS: I'm sure that is part of their certification.

105 CHAIR PARKS: Is that the same with doctors?

106 RAWLINS: We are talking about people that are recently retired that want to get involved but are reluctant because of the malpractice.

112 REP. BROWN: My concern is that poor people don't have the same standard of care as someone else. Gives example of how a problem might come up. Why aren't lawyers included in this?

120 SCHWAB: The standard of care is a matter of personal pride. The people that are accepted into our program are screened by us and board of Dental Examiners before they get involved. There has been very limited times when we have had problems with the standard of care that has been provided in our program.

129 RAWLINS: In the four years that we have had this program, we have not had a problem. If the providers knew that they had a guarantee against frivolous lawsuits, they would be more willing to step forward and volunteer.

138 REP. BROWN: We aren't talking about frivolous cases. We are talking about the difference between negligence and gross negligence.

139 RAWLINS: Discusses an example that almost became a legal malpractice case for Northwest Medical Teams.

150 REP. BROWN: I understand your point, I'm also concerned about the other people.

152 CHAIR PARKS: Discusses that these are both good amendments. If this is good for Northwest Medical teams, then the concept is good for all medical voluntary health professionals. Rep. Johnston will prepare an amendment that covers all voluntary health professionals.

165 REP. BROWN: All health care providers will include naturopaths?

167 CHAIR PARKS: Yes.

169 REP. JOHNSTON: Discusses definition of health care provider as in ORS. 18.550. Points out that dental hygienists are not included in SB 362, but should be.

177 REP. NAITO: Are all of the other provisions the same about negligence?

184 REP. QUTUB: Does that include nonprofit organizations?

187 CHAIR PARKS: It doesn't make a distinction as to that. This applies to the person that is a licensed health care professional, not just anyone.

189 REP. NAITO: They also can't receive any compensation.

191 MILT JONES, COMMITTEE COUNSEL: Both amendments would provide the limitation liability only when they are working under the hospices of a nonprofit organization, explains.

202 CHAIR PARKS: Discusses options for working the bill.

210 REP. QUTUB: Since there is no informed consent, there have been and could continue to be, negligence on the part of a medical practitioner in the performing of abortions, which concerns me.

217 REP. NAITO: I think this means a private nonprofit organization, but it would cover anyone who volunteers.

221 SCHWAB: Discusses amendment and that the bill would be limited to people who voluntarily provide services to a charitable corporation as defined in statute.

228 REP. JOHNSTON: Discusses that that point is included in the -4 amendment as proposed by him.

231 CHAIR PARKS: We will not vote on this until another day.

PUBLIC HEARING ON SB 373

253 MILT JONES, COMMITTEE COUNSEL: SB 373 requires action for damages arising out of survey to be brought within two years after injury or damage is discovered.

Witnesses: Steven Kafoury, Architects Council of Oregon
Tyler Parsons, Land Surveyor

256 STEPHEN KAFOURY, ARCHITECTS COUNCIL OF OREGON: Testifies in support of SB 373.

291 CHAIR PARKS: Why should we put a 90 day limitation on these rather than leave it at the two years? That is semi-retroactive application of the law.

297 KAFOURY: I don't think that it makes any difference. If you would like to change it, that is fine.

300 REP. NAITO: Is this a reinstatement of a cause of action, or are we cutting it off before it would be over with?

308 KAFOURY: The person would still have another 90 days to bring a lawsuit.

311 REP. NAITO: If they are cut off prematurely.

319 TYLER PARSONS, LAND SURVEYOR: Testifies and submits written testimony in support of SB 373. (EXHIBIT I)

WORK SESSION ON SB 373

352 REP. BROWN: Discusses conceptual amendment.

361 MOTION: REP. BROWN: moves to AMEND SB 373 by deleting "the last sentence of the bill" after "Act." on page 1, line 15 of the bill.

365 REP. NAITO: That might be a problem. Explains and discusses issues.

380 CHAIR PARKS: I don't like when we make these retroactive.

383 REP. NAITO: I would agree with changing 90 days to two years.

385 REP. BROWN: I accept that as a friendly amendment.

386 MOTION: REP. BROWN: moves to AMEND SB 373 by changing "90 days" to
"two years" on page 1, line 17 of the bill.

VOTE: Hearing no objections that amendments are ADOPTED. Rep. Tiernan is
excused.

389 MOTION: REP. JOHNSTON: Moves SB 373 AS AMENDED be sent to the full
committee with a DO PASS recommendation.

390 REP. QUTUB: Was there anyone opposed to the bill?

392 CHAIR PARKS: No one even signed up to testify.

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

PUBLIC HEARING ON SB 422

(SB 422 allows judgment creditor to recover interest at legal rate on
certain costs incurred to enforce judgment.)

Witness: Jim Markee, Oregon Collectors Association

411 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Testifies in support of SB
422.

TAPE 70, SIDE B

007 REP. NAITO: This is saying that you will get interest on the things
listed like court fees, etc.?

008 MARKEE: Correct. The statute is very specific about what this covers.

WORK SESSION ON SB 422

022 MOTION: REP. BROWN: Moves SB 422 be sent to the full committee with
a DO PASS recommendation.

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

PUBLIC HEARING ON SB 424

(SB 424 reduces time for filing claim of exemption from execution or
garnishment from 90 days to 30 days.)

Witness: Jim Markee, Oregon Collectors Association

031 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Testifies and submits
proposed amendments in support of SB 424. (EXHIBIT J)

061 REP. BROWN: Is the last paragraph a procedural change?

062 MARKEE: Yes.

WORK SESSION ON SB 424

065 MOTION: REP. BROWN: Moves to ADOPT SB 424-1 amendments dated
05/05/95.

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

071 MOTION: REP. BROWN: Moves SB 424 AS AMENDED be sent to the full
committee with a DO PASS recommendation.

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

081 CHAIR PARKS: Adjourns the hearing at 9:34 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Testimony on SB 79 - Frank Brawner - 2 pages
- B. Proposed Amendments to SB 79 - Lawrence Gorin - 1 page
- C. Testimony on SB 79 - Lawrence Gorin - 34 pages
- D. Proposed Amendments to SB 362 - Staff - 3 pages
- E. Proposed Amendments to SB 362 - Mike McCallum - 1 page
- F. Testimony on SB 362 - Mike McCallum - 2 pages
- G. Testimony on SB 362 - Jack Schwab - 3 pages
- H. Testimony on SB 373 - Tyler Parsons - 1 page
- I. Proposed Amendments to SB 424 - Jim Markee - 1 page