

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes -171

MEMBERS PRESENT:

SEN. NEIL BRYANT, Chair
SEN. RANDY MILLER, Vice-Chair
SEN. KEN BAKER
SEN. JEANNETTE HAMBY
SEN. PETER SORENSON
SEN. DICK SPRINGER
SEN. SHIRLEY STULL

STAFF PRESENT:

MAX WILLIAMS II, Committee Counsel
PAULA GILMER-PURCELL, Committee Assistant

MEASURES HEARD:

Public Hearing and Work Session on House Bill 3125
Work Session on House Bill 3098
Public Hearing and Work Session on House Bill 2167
Public Hearing and Work Session on House Bill 2616
Public Hearing and Work Session on House Bill 3096
Public Hearing on Senate Bill 895
Work Session on Senate Bill 601

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 168, SIDE A

003 CHAIR BRYANT: Opens the meeting at 3:00 p.m.

Opens Public Hearing on House Bill 3125

Witnesses: Representative Prozanski
David Fidanque
Ellen Lowe

005 REP. PROZANSKI, SPONSOR OF HOUSE BILL 3125: Speaks to why he has
sponsored this bill.

24 This bill will protect everyone who wants to participate in the political
process.

37 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION: Testifies in favor of
House Bill 3125 and discusses why they have supported this bill. Provides
written testimony [EXHIBIT A].

63 We have had many complaints over the years.

81 SEN. MILLER: Does this protect the employer?

94 FIDANQUE: I suspect that it might.

119 SEN. MILLER: What if you had a chat about political activities with an
employee, would you be subject to action?

127 FIDANQUE: There is law to cover that type of situation. On the other
hand, I think that if business was off, they could then lay the person off.

142 SEN. BRYANT: I did oppose this bill in previous sessions. But now the
exemptions I have previously requested are in this bill.

164 I also wanted the disciplinary section that is in the bill now.

199 SEN. BRYANT: I feel the protections are good.

202 SEN. STULL: I have some concerns. Under certain kinds of conditions,
maybe they should be have to let someone go for political reasons.

221 FIDANQUE: Under the federal and Oregon constitutions they would be
protected if their activities did not affect their work.

241 STULL: What is the magnitude of the problem?

247 FIDANQUE: We have not gotten hundreds of complaints, but we have gotten
many. The complaints have increased in recent years.

270 REP. PROZANSKI: The ballot measure process should be protected by this

change in the law. It does protect everyone.

293 SEN. SORENSON: Could you describe the downside of not passing this bill?

306 REP. PROZANSKI: Ballot measure nine, is a good example. Now contributions to activities are under more and more question.

337 ELLEN LOWE, ECUMENICAL MINISTRIES: Testifies in favor of House Bill 3125. Provides written testimony [EXHIBIT B].

367 We encourage our church members to be politically active. Many were afraid that they would be sanctioned in the workplace.

392 The language in the bill that relates to churches is what we worked on three sessions ago.

Closes Public Hearing on House Bill 3125

Opens Work Session on House Bill 3125

407 MOTION: SEN. HAMBY: MOVES House Bill 3125 to the floor with a DO PASS recommendation.

409 VOTE: 5-2 MOTION PASSES
AYE: Baker, Hamby, Sorenson, Springer, Bryant
NO: Miller, Stull

411 SEN. MILLER: I have concerns about the employer being able to run his business the way he wants.

436 SEN. BRYANT: I understand your concerns.

Close Work Session on House Bill 3125

Open Work Session on House Bill 3098

470 MOTION: SEN. MILLER: MOVES RECONSIDERATION of House Bill 3098.

TAPE 169, SIDE A

40 SEN. BRYANT: Provides explanation to the reconsideration.

69 SEN. HAMBY: Discusses the concerns of the language of possible denial of medical coverage.

79 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: This is not the intent of this bill.

95 VOTE: CHAIR BRYANT: Any objections? There are three objections. MOTION PASSES.

99 MOTION: SEN. MILLER: MOVES House Bill 3098 to the floor with a DO PASS recommendation.

103 VOTE: 4-3 MOTION PASSES
AYE: Hamby, Miller, Stull, Bryant
NO: Baker, Sorenson, Springer

102 Close Work Session On House Bill 3098

108 Open Public Hearing On House Bill 2167

Witnesses: Mary Claire Buckley
Arlene Wood
Harris Matarazzo
Al Elkins
Frank Brawner

119 MARY CLAIRE BUCKLEY, PSYCHIATRIC SECURITY REVIEW BOARD: Testifies in favor of House Bill 2167. Provides written testimony [EXHIBIT C].

145 The need for this change is fiscal. We need to meet the mandates of the Governor's budget.

157 SEN. SORENSON: I received a call from a person that was concerned that a person under the Psychiatric Review Board jurisdiction who would otherwise would not be available for these other reviews would be brought be brought within the provisions of this six month rule to be changed by this bill to be a eight month rule. Is that accurate?

171 BUCKLEY: Yes that is true

173 SEN. SORENSON: The number of those people that are not subject to some other kind of rule is a pretty small number?

185 BUCKLEY: Patient requested hearings are substantial.

193 SEN. SORENSON: But would many be under other provisions?

195 BUCKLEY: Explains the options and the type of hearing requests.

216 ARLENE WOOD, OREGON ALLIANCE FOR THE MENTALLY ILL, FORENSIC NETWORK: Testifies against House Bill 2167. Provides written testimony [EXHIBIT E].

252 HARRIS MATARAZZO: Testifies against House Bill 2167. Provides written

testimony [EXHIBIT F].

276 The money saved is not worth people losing their rights.

315 SEN. MILLER: This bill is because of budget cuts?

317 MATARAZZO: That's what I understand.

337 SEN. HAMBY: It would cause us to spend money we do not have.

347 SEN. SORENSON: Why is there a higher cost if this bill is passed?

354 MATARAZZO: It saves the PSRB money. However, It costs more to have the people remain in the hospital than to have them out on conditional release.

371 SEN. SORENSON: But it will show the agency with a lower budget.

403 SEN. HAMBY: Where could we find the dollars?

405 BUCKLEY: I have tried, even for federal funds. The psychology association money was a one shot deal.

Close Public Hearing on House Bill 2167

Open Work Session on House Bill 2167

467 SEN. SORENSON: Should we table this bill till later?

TAPE 168, SIDE B

46 SEN. BRYANT: We have a problem with the relating clause and the amendments.

Close Work Session on House Bill 2167

Open Public Hearing on House Bill 2616

73 AL ELKINS, OREGON TOW TRUCK ASSOCIATION: Provides an overview of the bill.

85 I am also submitting amendments for Keith Burns [EXHIBIT G]. Let me go over the amendments.

102 FRANK BRAWNER, OREGON BANKERS ASSOCIATION: Testifies on House Bill 2616. Provides amendments [EXHIBIT H]. Page one, line twenty-one, after the period insert "Provided, however, that this subsection shall not be deemed to grant immunity for any loss, damage or injury arising out of any negligent or willful damage to or destruction of the vehicle which occurs during the course of the towing".

Close Public Hearing on House Bill 2616

Open Work Session on House Bill 2616

147 MOTION: SEN. HAMBY MOVES the proposed amendments, combined with the conceptual amendments requested from the Oregon Bankers Association.

150 MOTION: SEN. HAMBY: MOVES House Bill 2616, as amended, to the floor with a DO PASS recommendation.

155 VOTE: SEN. MILLER: No objections? MOTION PASSES Sen. Hamby will the bill.

Close Work Session On House Bill 2616

Open Public Hearing On House Bill 3096

Witnesses: Sy Kornbrodt

160 SY KORN BRODT, DEPARTMENT OF CORRECTIONS: Provides written testimony [EXHIBIT I].

211 I feel about fifty to sixty therapists have gone wrong. This program will pay for itself.

227 Let me provides some amendments [EXHIBIT L].

266 Many of these therapists will not cooperate with the parole and corrections officers.

289 Continues going over the amendments that he has submitted.

318 SEN. BAKER: On page six of the bill, section sixteen, what amount goes in there?

320 KORN BRODT: We had a referral on the House side to Ways and Means. But, that was removed on the House side.

348 MAX WILLIAMS, COMMITTEE COUNSEL: Goes over the fiscal impact.

Close Public Hearing on House Bill 3096

Open Work Session on House Bill 3096

365 MOTION: SEN. HAMBY: MOVES the amendments to House Bill 3096.

367 SEN. MILLER: It does have an impact of \$37, 000 and more for the next biennium.

395 MOTION: CHAIR BRYANT: MOVES House Bill 3096, as amended, to Ways and
Means.

Close Work Session on House Bill 3096

Open Public Hearing on Senate Bill 895

Witnesses: Dave Bacca
Carman Calzacourt
Roger Martin
Chuck Putney
Bob Stull
Jerome Labarre

408 DAVE BACCA, DAVIS WRIGHT TREMAINE: Testifies in favor of Senate Bill
895. Provides written testimony [EXHIBIT N].

448 Provides an example of the need for this bill.

TAPE 169, SIDE B

40 We often have to charge the business man a lot of money to prepare the
offering.

58 We feel this currently hurts the Oregon economy.

82 This bill would not effect the work a broker does.

100 CARMAN CALZACOURT, ATTORNEY: Testifies in support of Senate Bill 895.

114 CHAIR BRYANT: The last time I got one of these calls, it was very
simple offering, I said \$30,000. What would your fees be?

118 BACCA: \$30,000 would be low, \$50,000 would be high.

136 CHAIR BRYANT: What would be your reduction then?

141 BACCA: Fifty percent.

156 BACCA: Describes the case law that Prince v. Brydon has caused.

182 ROGER MARTIN, SECURITIES INDUSTRY ASSOCIATION: Testifies against Senate
Bill 895.

197 We contend that the dash one amendments do away with liability.

218 We object to the words broker dealers.

227 CHUCK PUTNEY, SECURITIES BROKER: Testifies against Senate Bill 895.

246 We do not have control beyond the prospects.

259 Speaks from a document that discusses what a company in Salem did.

278 CHAIR BRYANT: Currently are not the broker dealers, if they are
involved in a transaction, be liable under 59.155? Even if it didn't
involve the broker?

289 PUTNEY: If it is a material fact not discovered, or not disclosed to
the underwriter, then they are not responsible.

316 CHAIR BRYANT: If the words "or broker dealer" were deleted, that would
solve part of your problem?

321 MARTIN: If you are going back to the original bill, I would like to
confer with our counsel before I say anything.

340 BOB STOLL, PORTLAND LAWYER: Testifies against Senate Bill 895.

390 - continues

450 - refers to graph

TAPE 170, SIDE A

055 - discusses due diligence

073 JEROME LABARRE: I was on the task force and spent hundreds of hours
between 1990 and 1991 in an effort to come up with a balance of a touchy
topic. There is nothing wrong with the current law.

Closes Public Hearing on House Bill 895

Opens Work Session on Senate Bill 601

100 TOM TONGUE: Testifies and submits written testimony on SB 601 [EXHIBIT
P].

145 RICHARD NEUBERGER: Testifies on SB 601. Explains bill is a compromise.

200 - explains bill

235 - discusses settlements

270 TONGUE: Suggests a change should be made in settlement to parties.

298 NEUBERGER: Discusses reallocation

350 - continues discussing reallocation

385 CHAIR BRYANT: So, in your example, if C can only pay a \$1,000, you reallocate. But in the reallocation if B can only pay \$1,000 of the reallocation, then there would still be a \$1,000 uncollected. The you would go back to plaintiff and A to see how that is distributed.

NEUBERGER: That is correct

405 TONGUE: There are two provisions in this that are critical from the defendants standpoint, and they are on page seven paragraph five and six.

436 - concept is that parties who are more at fault should pay more

TAPE 171, SIDE A

050 NEUBERGER: In determining whether the defendant is subject to allocation you consider all of that.

110 TONGUE: Discusses people who are immune from liability.

130 NEUBERG: Discusses statutes of limitations.

180 TONGUE: We have avoided using equitable.

210 CHAIR BRYANT: The plaintiff, by settling willing with the other defendant would buy the portion of the other defendants liability.

211: TONGUE: Exactly.

222 NEUBERGER: Discusses limiting reallocation.

260 TONGUE: Discusses negligent trust.

292 CHAIR BRYANT: I intend to take this as a conceptual amendment to Legislative Counsel Section six is the only section left that you haven't agreed to on.

330 SEN. SPRINGER: Discusses amending words in Sub Section six.

355 CHAIR BRYANT: Have you agreed to the fifteen percent?

358 TONGUE: We don't have a consensus between us.

375 MOTION: CHAIR BRYANT: MOVES the conceptual amendments, number
with the following change: page seven, sub paragraph six, that the
be changed to twenty percent.

fifteen

sev

VOTE: 5 - 2 MOTION PASSES
AYE: Baker, Hamby, Miller, Stull, Bryant
NO: Springer, Sorenson

380 MOTION: CHAIR BRYANT MOVES Senate Bill 601, as amended, to the Floor
with a DO PASS recommendation.

382 VOTE: 5 - 2 MOTION PASSES
AYE: Baker, Hamby, Miller, Stull, Bryant

390 CHAIR BRYANT: Adjourns meeting at 5:50 p.m.

Submitted by, Reviewed by,

Paula Gilmer-Purcell M. Max Williams II
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Testimony on House Bill 3125, submitted by David Fidanque
- B - Testimony on House Bill 3125, submitted by Ellen Lowe
- C - Testimony on House Bill 2167, submitted by Mary Claire Buckley
- D - Testimony on House Bill 2167, submitted by Mary Claire Buckley
- E - Testimony on House Bill 2167, submitted by Arlene Wood
- F - Testimony on House Bill 2167, submitted by Harris Matarazzo
- G - Testimony on House Bill 2616, submitted by Keith Burns
- H - Testimony on House Bill 2616, submitted by Frank Brawner
- I - Testimony on House Bill 3096, submitted by Sy Kornbrodt
- J - Testimony on House Bill 3096, submitted by Sy Kornbrodt
- K - Testimony on House Bill 3096, submitted by Sy Kornbrodt
- L - Testimony on House Bill 3096, submitted by Sy Kornbrodt
- M - Testimony on Senate Bill 895, submitted by Cecil Monroe

N - Testimony on Senate Bill 895, submitted by David Bacca
O - Testimony on Senate Bill 895, submitted by David Bacca
P - Testimony on Senate Bill 601, submitted by Tom Tongue