

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 7

MEMBERS PRESENT:

Sen. Neil Bryant, Chair
Sen. Ken Baker
Sen. Jeannette Hamby
Sen. Randy Miller
Sen. Peter Sorenson
Sen. Dick Springer
Sen. Shirley Stull

STAFF PRESENT:

Bill Taylor, Committee Counsel
Max Williams, Committee Counsel
Dar Woodrum, Committee Assistant

MEASURES HEARD:

Bill Introduction - LC 2194
SB 62 Public Hearing
SB 63 Public Hearing

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 , A

04 CHAIR BRYANT: Brought the meeting to order at 3:00 p.m.

06 CHAIR BRYANT: Adoption of rules.

10 MOTION: SEN. BAKER: MOVED ADOPTION OF TEMPORARY RULES AS PERMANENT
RULES. HEARING NO OBJECTION, MOTION CARRIED UNANIMOUSLY.
SENATORS PRESENT: CHAIR BRYANT, BAKER, MILLER, SORENSON, AND SPRINGER
EXCUSED: SENATORS HAMBY AND STULL

BILL INTRODUCTION
LC DRAFT 2194

12 BILL TAYLOR, COMMITTEE COUNSEL: Described the draft.

14 MOTION: CHAIR BRYANT: Moves the committee INTRODUCE LC 2194.
VOTE: CHAIR BRYANT hearing no objection, the MOTION CARRIES.
Members present: Chair Bryant, Baker, Miller, Sorenson and Springer.
Excused: Senators Hamby and Stull

20 CHAIR BRYANT: Opens work session on LC 2194

Witnesses: Edwin Peterson, Chair of the Judicial Review Committee of the
Judicial Conference
Roy Pulvers, Staff Attorney to Oregon Supreme Court
Paul Snyder, Association of Oregon Counties

25 EDWIN PETERSON, CHAIR OF JUDICIAL REVIEW COMMITTEE: Testifies in
favor of LC 2194

77 PETERSON: Prior legislation left too many holes available for confrontation.

85 PETERSON: The Bill does not effect the appeal process of the employment relation board, employment appeals board and LUBA and the workers compensation board.

90 PETERSON: Confirms the support of the Attorney General.

111 SEN. SORENSON: Asks about savings statute that allows an additional year from date of dismissal does this legislation affect that statute?

124 PETERSON: No. This legislation does not in any way affect those statutes.

129 SEN. SORENSON: Asks about the fiscal impact. Does it have a positive fiscal impact on the private sector?

136 PETERSON: Yes. We felt it difficult to quantify that.

141 SEN. SORENSON: Statute of limitations question.

144 ROY PULVERS, STAFF ATTORNEY TO OREGON SUPREME COURT: Testifies in favor of LC 2194

171 MILLER: Judicial Conference was in support at this time. Could you indicate what objections you anticipate and how you would respond to them?

182 PETERSON: The objections have been general and unspecified. It is his belief over all that the current legislation allows the experts an advantage and that specifically would be why they would oppose changing the legislation.

201 PULVERS: The objections are standing requirements, the requirements of an individual exhausting all of their government remedies before they come into court, any legal issues raised in courts have to be raised initially in local government, which allowed local government an unfair advantage over the individual because they are only obliged to give as much information as they seem fit.

256 CHAIR BRYANT: Questions regarding staying agency decision do they do this at the court level or at the agency level.

263 PULVERS: Under the present Bill if the local government entity had a provision that you had to select a stay there, then you would have to be obliged by that system. This is not an entity to supersede local government, although there would not be a resistant to put back a stay provision, that is something that needs to be talked through.

288 CHAIR BRYANT: In the petition for review. Do you require that the person seeking the review state that the administrative reviews have been exhausted and what their standing are and similar requirements?

294 PULVERS: (In Reference to Exhibit D page 3, section 3, submitted by Staff) He does feel that this would be an appropriate addition to the provision.

313 TAYLOR:: How does this bill differ from the one in 1991?

317 PULVERS: Primarily it is more streamline.

343 SORENSON: . Did you look into anything comparable to giving the people who testify on an ordinance or will otherwise be ...provide them with right to seek review, so determination of their knowledge could be established...etc.

373 PULVERS: Neither was specifically discussed.

375 SORENSON: Could you supply this information for this review?

376 PULVERS: It would be very simply to provide a readily available form for people to draft in this issues.

TAPE 7A

45 PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES: Testimony given in opposition to LC 2194. We are not just talking about a law change but a law revision. He explains the history of the Bill and the history of the review of the Bill. Comparing the drafts is quite difficult. Some of the changes reflect more of style then the substance that causes his concerns.

An enactment causes the statue of limitation the two years untold, beginning from the time when notice is provided...this causes concern for him as well as: Who has the standing of review? The number of individuals

that the legislation decided is capable of reviewing the standing review and as long as they are an organization of that size and they can show that a government action can cause injure the an identifiable interest then they have standing for a review.

100 Putuniary interest, identifiable interest. One of the objections for standing for associations organizations were identifiable interest were less the an economical interest. Something less then a substantial interest, which could be a business based in New York City has an action against a business in Beverton Oregon that they don't agree with.

150 He suggests that the current law be reviewed for duplications and simplification.

160 SNYDER: Concludes that it is his perception that the current legislation was drafted to create more uniformity and more guidance of people practicing involving reviewing government action concerns were raised that the exceptions would undo the rules, considering that there are

21 listed rules of exceptions. Statue of Limitation was a main concern and

there are four area's of review addressed for the concerns of Statues of Limitations. There are some benefits of this legislation, but basically the current effort to stream line the current legislation over the 1991 that we want to work with this group to try to come to an agreement on this Bill.

180 CHAIR BRYANT: Asks about 1991 version. Was this bill close to acceptable?

190 SNYDER: The 1991 Bill was only a few amendments away from being totally acceptable for the counties involved.

214 SNYDER: His goal to the proprietors of this Bill isn't to stall it dead in the water, but to address the concerns of his committee.

230 CHAIR BRYANT: Believes that it would be beneficial that he got together with the proprietors of the Bill and work things out. The committee would be interested in hearing both sides at that point.

233: Closes WORK SECESSION on LC 2194.

PUBLIC HEARING ON SB 62

Witnesses: Carl Myers, Legislative Consultant to Oregon State Bar

Don Douglas, CO Chair from the business law section of the Oregon State Bar

Mark Goldy, CO chair from the business law section of the Oregon State Bar

Dave Simon, Legislative Consultant to Oregon State Bar

Sandra Flicker, of the Rural Electric Co-ops

Gary Bower, Oregon independent Telephone

248 CARL MYERS, LEGISLATIVE CONSULTANT TO OREGON STATE BAR: Testifies in favor of SB 62.

279 DAVE SIMON LEGISLATIVE CONSULTANT TO THE OREGON STATE BAR: Testifies in favor of SB 62.

345 CHAIR BRYANT: Very little amendments since 1957.

349 SIMONS: This is True.

352 SEN. BAKER: What kinds of organizations will use this?

357 SIMONS: Anything that can be organized as an organization can be organized as a "CO-OP" In In the basic sense a CO-OP is a basic organization for self help. Specifically you see it in Oregon in Agriculture. Farmers will get together with other farmers to market their product.. .

360 SEN. BAKER: Does organizations that organize under a cooperative in Agriculture as well as Cooperatives in Utilities work under the same set of legislation?

365 SIMONS: It is my understanding that they do.

391 WRITTEN TESTIMONY HANDED OUT FOR JOHN McCULLY (see exhibit J)

398 GARY BOWER, OREGON INDEPENDENT TELEPHONE : Testifies in favor of SB 62

411 CHAIR BRYANT: When will your review be complete?

411 BOWER: In a day or two.

411 SANDRA FLICKER, OREGON RURAL ELECTRIC COOPERATIVE ASSOC.: Testifies in favor of SB 62

412 CHAIR BRYANT: Closes Public Hearing on SB 62

OPENS PUBLIC HEARING ON SB 63

455 DON DOUGLAS and MARK GOLDY: CO-CHAIR OF TASK FORCE THAT WROTE THE LIMITED LIABILITY ACT IN THE 1993 LEGISLATIVE SECESSION. Handout given (See exhibit J) Testifies in favor of Senate Bill 63.

TAPE 7B:

43 DOUGLAS: This bill corrects language to allow use of limited liability companies, it also lifts a drafting error that causes some confusion in the current status of limit liability companies where in our desires to temporarily prohibit professionals from using this initiate we use language that excludes too many people. Clarified workers compensation laws so that they state that workman compensation laws do indeed apply to this statue. Oregon securities laws that apply to limited liability companies, makes more useful to family owned limited liability companies.

97 CHAIR BRYANT: Asks for clarification regarding allowing protection in LLC, doesn't expand scope of limited liability.

98 DOUGLAS: That is correct.

99 SEN.SORENSEN: Is there any effort by the American Law institute to

provide an uniform stay law to draft a single statutes that could be enacted
by each legislator?

100 DOUGLAS: They have at this time several drafts at this time that would
uniform the LLCC .

115 SEN. SORENSON: Would we then be passing legislation that in two years
will be replaced by uniform laws?

118 DOUGLAS: Not necessarily.

136 SEN. HAMBY: With the popularity of Oregon LLCC it would be ideal to
have something in place right now.

164 DOUGLAS: Indeed, I am impressed with the informality that the 48 states
have and we have reviewed each of these drafts. It maybe somewhat
consistent to Oregon's acts.

CLOSES PUBLIC HEARING ON SB 63
OPENS WORK SESSION ON SB 63

175 CHAIR BRYANT: MOTION: To ACCEPT. HEARD NO OBJECTIONS

179 CHAIR BRYANT: SEN. STULL AS CARRIER

Adjourned at 4:10

Submitted by,
Patricia Wehrli
Committee Assistant

Reviewed by,
Karen Quigley
Committee Counsel

EXHIBIT SUMMARY:

Exhibit A: RULES FOR THE SENATE JUDICIARY COMMITTEE, SUBMITTED BY
STAFF COUNSEL.

B: DRAFT SUMMARY OF LC 2194, SUBMITTED BY STAFF COUNSEL

C: STAFF MEASURE SUMMARY, SUBMITTED BY BILL TAYLOR, COUNSEL

D: SENATE BILL 107, SUBMITTED BY STAFF COUNSEL

E. SENATE BILL 62-STAFF MEASURE SUMMARY, SUBMITTED BY MAX WILLIAMS, COUNSEL

F: SENATE BILL 62, SUBMITTED BY STAFF COUNSEL

G: SENATE BILL 63-STAFF MEASURE SUMMARY, SUBMITTED BY MAX WILLIAMS, COUNSEL

H: TESTIMONY OF EDWIN J. PETERSON, CHAIR OF THE JUDICIAL REVIEW COMMITTEE OF
THE JUDICIAL CONFERENCE.

I: SENATE BILL 62-SUMMARY, SUBMITTED BY DAVE SIMON

J: TESTIMONY IN SUPPORT OF SB 62, SUBMITTED BY JOHN McCULLEY

K: TESTIMONY IN SUPPORT OF SB 62, SUBMITTED BY DONALD W. DOUGLAS AND MARK
GOLDING, CO CHAIRS FROM THE BUSINESS LAW SECTION OF THE OREGON STATE BAR.

L: SENATE BILL 63, SUBMITTED BY STAFF COUNSEL