

SENATE COMMITTEE ON  
JUDICIARY

March 27, 1995 Hearing Room C  
3:00 P.M. Tapes 70 - 72

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:

M. Max Williams I, Committee Counsel  
Julie Clemente, Committee Assistant

MEASURES HEARD: Work Session SB 223  
Public Hearing SB 796  
SB 902  
Public Hearing & Work Session SB 557  
SB 795

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 70, SIDE A

002 CHAIR BRYANT: Calls Committee to order  
OPENS WORK SESSION ON SB 223  
Invited testimony Peter D Shepherd, Assistant Attorney General, Oregon  
Department of Justice  
(Attorney in charge of Financial Fraud Section)  
Ray Gribling, Direct Marketing Association

010 PETER D. SHEPHERD, Assistant Attorney General, Oregon Department of  
Justice:  
Presents proposed 223-1 amendments Attempts to correct concerns expressed  
by the  
committee and witnesses that SB 223 didn't address  
- Perrnits guardian of an individual to "turn off the flow" of unsolicited  
mail  
- Would this bill inadvertently touch on some aspects of direct mail  
solicitation which are not  
problems for consumers? Explains  
- Additional exclusions from the definitions of solicitation and solicitor  
Explains.

054 Continues If a business wanted to speak to me about a different sub  
ject they could send a

generalized mailing Explains  
SENATE JUDICIARY

March 27, 1995 - Page 2

109 CHAIR BRYANT: Reader's Digest, Ed McMahon, etc. Would they be affected?

SHEPHERD: Are potentially affected. Explains.

CHAIR BRYANT: Is there other alternate language available that would take  
care of the Readers' Digest, etc. type of thing?

SHEPHERD: Difficult to draft language that distinguishes between Mr.  
McMahon and the ones that cause the kind of problems related in prior  
testimony. Explains.

CHAIR BRYANT: Do you feel comfortable that these amendments address the  
speech issue previously discussed'?

SHEPHERD: These amendments were intended to address that. Explains.

157 SEN. BAKER: What do you do with partially funded agencies'? Are they  
covered under this as  
well?

SHEPHERD: Under lines 22 and 23 not covered as drafted. Explains.

191 RAY GRIBLING, Representing Direct Marketing Association: Clients have  
not had time to  
look at Attorney General's amendments. Has some serious questions about the  
constitutionality.

Have worked with AG's off'ce for past year to make the law workable.

Objective is to catch the

"bad guys". Don't make it tougher on the good guys to operate. Explains.

CHAIR BRYANT: They get a better bulk rate by printing so far in advance'?

GRIBLING True. Have own lists of subscribers. Also rent lists from others.

Explains.

246 Find ourselves in a 'catch 22" situation. Reason for mailing these out,  
is to get people to open

the envelope. Explains.

265 CHAIR BRYANT: From a marketing standpoint, not putting on a name defeats  
the purpose?

GRIBLING: If the name is on there, people are more apt to open the  
envelope.

287 SEN. SORENSON: Are all political mailings exempt from the statute'?

GRIBLING: Yes, I believe that is correct.

296 SEN. SORENSON: Is it exempted from this bill or is it covered?  
Government, rather than

candidates?  
GRIBLING: Can't answer that.

319 SEN. SORENSON: What do you do when you don't have any control over the mailing list'?

GRIBLING: Omit name/address on an individual basis.

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SENATE JUDICIARY  
March 27, 1995 - Page 3

333 SEN. MILLER: Are there other examples in other states where they have gone through this

elaborate procedure to accomplish this end?  
GRIBLING: Yes there are. Explains.

362 CHAIR BRYANT: Still uncomfortable, even with amendments. Would like to look and see what other states have done.

CLOSES WORK SESSION ON SB 223

OPENS PUBLIC HEARING ON SB 557

Witnesses: Senator Ron Cease, SD #10  
James Wheeler, Director, Columbia Counseling, Inc. and Chairman, Oregon Council of Adoption Agencies.  
Betty Uchyttil, Assistant Administrator, Program and Policy, Children's Services Division' Oregon Department of Human Resources  
Catherine M. Dexter, Attorne

374 SENATOR RON CEASE, SD #10: Sponsor of SB 's 557, 795 and 796 at the request of the Oregon Council of Adoption Agencies. Explains.

443 Continues.

447 SEN. BAKER: SB 795, is this Frank Robert's bill of last session?

TAPE 71, SIDE A

039 JAMES WHEELER, Director, Columbia Counseling, Inc. and Chairman, Oregon Council of Adoption Agencies: Test)files in support of SB 557. [EXHIBIT B] Yes it is.

SB 348 with

amendments. [EXHIBIT A]

049 Services

BETTY, UCHYTIL, Assistant Administrator, program and Policy, Children's Division, Oregon Department of Human Resources: Test)files in support of SB

557.

[EXHIBIT E]

083 WHEELER: CSD is not properly served until all documentation is there. Should have 30 days

from time all documentation has been served. Explains.

107

SEN. BAKER: Bottom line -- the adoption doesn't get processed by the

Court until CSD signs

its release?

the report to the

WHEELER: CSD actually sends the waiver to the court at the time they assign

agency. Explains.

UCHYTIL: Yes, that is the process.

WHEELER: Continues.

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SENATE JUDICIARY  
March 27, 1995 - Page 4

121 UCHYTIL: We do about 1,800 adoptions a year.

132 proposed SB 557

CATHERINE M. DEXTER, Attorney: Test)files in favor of SB 557 and the

1 amendments. [EXHIBIT H]

169 Continues.

207 rights have been

Continues. Really is the judge's domain to decide if the birth parent's

satisfied.

214 days?

SEN. SORENSON: What would be the remedy if CSD failed to act within 30

DEXTER: Gentle persuasion with a statute behind you. Explains.

231 SEN. SORENSON/DEXTER: Are you suggesting a penalty?

285 CHAIR BRYANT: Do you know why that language was removed?

WHEELER: Don't recall.

SEN. BAKER: Last house committee thought the important party here was the child. Are adoptions in the State of Oregon being processed within 4 to 6 months'?

DEXTER/BAKER: The majority of them are.

314 DEXTER/BAKER: Continue.

326 remedy be what

WHEELER: In regard to the question of a remedy. Would like to see the

is currently happening. Explains.

CLOSES PUBLIC HEARING ON SB 557  
OPENS WORK SESSION ON SB 557

350 MOTION: CHAIR BRYANT: Moves to ADOPT the SB 557-1 amendments dated 3/21/95.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All members are present.

MOTION: CHAIR BRYANT: Moves that SB 557, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objection, the motion CARRIES. All members are present.

SENATOR CEASE will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 557

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SENATE JUDICIARY

March 27, 1995 - Page 5 OPENS PUBLIC HEARING ON SB 795

Witnesses: James Wheeler, Director, Columbia Counseling, Inc. and Chairman, Oregon Council of Adoption Agencies Betty Uchyttil, Assistant Administrator, Program and Policy, Children's Services Division, Oregon Department of Human Resources Jennifer Ball, Holt International Children's Services

373 JAMES WHEELER, Director, Columbia Counseling, Inc. and Chairman, Oregon  
Council of Adoption Agencies: Test)files in support of SB 795. IEXHIBIT C1  
399 BETTY UCHYTIL, Assistant Administrator, Program and Policy, Children's  
Services Division, Oregon Department of Human Resources: Test)files in support of SB  
795 recommending minor change to line 15, Section 1. [EXHIBIT F  
412 SEN. HAMBY: Recommending a minor change?

UCHYTIL: Explains.

436 JENNIFER BALL, Holt International Children's Services: Test)files in favor of SB 795. [EXHIBIT 1

TAPE 70, SIDE B

049 SEN. BAKER: Has the agency set up any sort of schedule for that charge'?

WHEELER: No, they have not.

CLOSES PUBLIC HEARING ON SB 795 OPENS WORK SESSION ON SB 795

067 MOTION: SEN. BAKER: Moves to ADOPT the amendment to SB 795 suggested by CSD deleting 'is not conducting searches or" from line 15, Section 1.  
VOTE: VICE-CHAIR MILLER: Hearing no objection the amendment is ADOPTED. All members are present. CHAIR BRYANT IS EXCUSED.  
MOTION: SEN. BAKER: Moves that SB 795, AS AMENDED, be sent to the Floor with a DO PASS recommendation.  
VOTE: VICE-CHAIR MILLER: Hearing no objection, the motion CARRIES. All members are present. CHAIR BRYANT IS EXCUSED.  
SENATOR CEASE will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 795

OPENS PUBLIC HEARING ON SB 796

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SENATE JUDICIARY

March 27, 1995 - Page 6

Witnesses: James Wheeler, Director, Columbia Counseling, inc. and Chairman of the Oregon

Council of Adoption Agencies

Betty Uchyttil, Assistant Administrator, Program and Policy, Children's Services Division, Oregon Department of Human Resources

Gail Ryder, Director of Government Affairs, Oregon Newspaper Publishers Association

Jennifer Ball, Holt Intemational Children's Services

Catherine M. Dexter, Attorney

077 JAMES WHEELER, Director, Columbia Counseling, Inc. and Chairman of the  
Oregon Council of Adoption Agencies: Test)files in support of SB 796. IEXHIBIT D]  
106 BETTY UCHYTIL' Assistant Administrator, Program and Policy, Children's  
Services Division, Oregon Department of Human Resources: Test)files in support of SB  
796.  
[EXHIBIT C1  
124 GAIL RYDER, Director of Government Affairs, Oregon Newspaper Publishers  
Association: Test)files in support of SB 796. [EXHIBIT J]  
176 JENNIFER BALL, Holt International Children's Services: Test)files in  
support of SB 796.  
[EXHIBIT K]  
196 SEN. SPRINGER: Are we making this a crime'?

MAX WILLIAMS: In Section 2.

SEN. SPRINGER: What's our ability to prosecute a crime that originates out of state?

MAX WILLIAMS: Not sure I can answer. Valid point.

SEN. SPRINGER: Think we have a problem here in terms of enforceability out of state.

222 CATHERINE M. DEXTER, Attorney: Testifies in opposition to SB 796.  
1EXHIBIT L]  
302 DEXTER: Continues. Bill for Oregon at this time is too broad.  
313 SEN. HAMBY: Perhaps staff would look at Washington's statute for language.

MAX WILLIAMS: Will get comparable Washington statute and do some penalty comparisons.

330 DEXTER: Concerned with medical technology and the failure of the law to keep up.  
334 VICE-CHAIR MILLER: Would you define an uncompensated agent?

DEXTER: Someone who is acting on your behalf but not charging a fee.

354 Problem with that is because it is not defined.

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SENATE JUDICIARY

MAX WILLIAMS: Was there some understanding or intention regarding what uncompensated agent was referring to in the bill?

360 WHEELER: No there wasn't. I provided legislation from Washington to Legislative Counsel who drafted this for Oregon. Language is from Washington law.  
MAX WILLIAMS: Could essentially create a loop hole.  
WHEELER: Must remember what the bill is all about. Explains.  
391 CLOSES PUBLIC HEARING ON SB 796

OPENS PUBLIC HEARING ON SB 902

Witnesses: Sample Lindholm, Executive Director, Manufactured Housing Communities of Oregon  
Don Miner, Oregon Manufactured Housing Association  
David Nebel, Oregon Legal Services  
Frank R. Burleson, Coalition of Mobile Home Park and Floating Home Marine Residents of Oregon  
Don Comstock, Secretary/Treasurer, MHCO and owner of small manufactured housing community in HillSB or  
Allen Connelly, President, MHCO, owner of manufactured housing community in Albany

433 SAMPLE LINDHOLM, Executive Director, Manufactured Housing Communities of Oregon: Testifies in support of SB 902. [EXHIBIT M1

TAPE 71, SIDE B

040 LINDHOLM: Continues.  
073 SEN. SORENSON: Referring to chart; approximately what percentage are FED's that deal with mobile home rentals?  
LINDHOLM: Counties are unable to break them down.  
087 SEN. SORENSON: How many FED's are issued by the members of your association?

LINDHOLM: Cannot give you an exact number. Explains.

SORENSON/LINDHOLM: Discussion

123 Continues.  
141 SEN. BAKER: Is mobile home a different section'?

LINDHOLM: it's a different part of the Landlord-Tenant Law. Explains.

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SENATE JUDICIARY

March 27, 1995 - Page 8 SEN. BAKER/LINDHOLM: Is this a big problem'?

175 LINDHOLM: My understanding that the 12 000 figure did not respond to notices and had to go to court to pursue.

185 DON MINER, Oregon Manufactured Housing Association: Working with sponsors of bill to draft amendments that would soften effect of bill. 1EXHIBIT N1 Attempting to create a process similar to one that currently exists in ORS 90.670 to address the case of the tenant abandoning his manufactured home. Explains.

Ma

212 DAVID NEBEL, Oregon Legal Services on behalf of low income clients:  
Test)files in opposition to SB 902. [EXHIBIT P1  
260 Continues.  
302 Bill should specify that we are talking specifi ally about non-payment  
of rent notices under  
ORS 90.400 (2). Continues.  
329 VICE-CHAIR MILLER: References comments that this bill is unfair,  
unworkable and  
unnecessary ;'You don't need it if you can already do it."  
NEBEL "It's not already in the law." My objection is that what is not in  
the law is the right to  
evict someone for repeated late payment of rent in a mobile home park.  
Explains.  
367 FRANK R. BURLESON, Coalition of Mobile Home Park and Floating Home  
Marina Residents of Oregon: Test)files in opposition to SB 902. [EXHIBIT Q  
420 Continues.

TAPE 72, SIDE A

055 SEN. BAKER: Confine testimony to the fourth notice.  
065 BURLESON/BAKER: Debate if issue is relevant to SB 902.  
083 SEN. SORENSON: Do you agree that a resident of a mobile home park cannot  
be evicted  
for failure to pay a late fee ?  
BURLESON: That is what I understand.  
118 SORENSON/BURLESON: Discussion.  
138 DON COMSTOCK, Secretary/Treasurer of MHCO and an owner of a manufactured  
housing community in HillsSB oro: Test)files in support of SB 902.  
150 Park small - 50 spaces. Last month gave out 4 seventy-two hour notices.  
Always tries to  
work with his tenants.

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SENATE JUDICIARY  
March 27, 1995 - Page 9  
183 ALLAN CONNELLY, President MHCO and owner of a manufactured housing  
community  
in Albany: Test)files in support of SB 902. Addresses Sen. Sorenson's  
previous question. We  
have no effect way to collect late fees. We can assess it, but if they  
chose not to pay, we have no  
recourse. We don't evict - not in our best interests. Takes minimum of two  
months after 72 hour  
notice to regain control of space. A last resort effort.  
209 SEN. SORENSON: Can you estimate the number of times you have issued the  
FED notice or  
filed the FED case?  
CONNELLY: Recall three instances. Explains.  
222 COMSTOCK: In four years, issued 14 seventy-two hour notices. Started 1  
FED and process  
was eliminated through mediation.  
SEN. SORENSON: Would the bill as proposed affect either of you'?  
COMSTOCK: Would help me in one case. Explains.

267 SEN. SPRINGER: Any distinction between those occupying as renter as  
opposed to an owner  
in terms of the law?  
CONNELLY: There should be a difference. Explains.  
Additional testimony submitted for the record in support of SB 902 from  
Kevin Hanway,  
Lobbyist for Metro Multifamily Housing Council. 1EXHIBIT \*

CLOSES PUBLIC HEARING ON SB 902

286 VICE-CHAIR MILLER: Adjourns at 5:25 p.m.

Submitted by: Reviewed by:

Julie Clemente M. Max Williams II  
Committee Assistant Committee Administrator/Counsel

EXHIBIT LOG:

A - Proposed Amendments SB 557 -- staff -- 1 page  
B - Testimony SB 557 -- James Wheeler -- 1 page  
C - Testimony SB 795 -- James Wheeler -- 1 page  
D - Testimony SB 796 -- James Wheeler -- 1 page  
E - Testimony SB 557 -- Betty Uchytel -- 2 pages  
F- Testimony SB 795 -- Betty Uchytel -- 1 page  
G- Testimony SB 796 -- Betty Uchytel -- 1 page  
H - Testimony SB 557 -- Catherine M. Dexter -- 1 page  
I - Testimony SB 795 -- Jennifer Ball -- 1 page

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SENATE JUDICIARY

March 27, 1995 - Page 10

J- Testimony SB 796 -- Gail Ryder -- 2 pages  
K - Testimony SB 796 -- Jennifer Ball - 1 page

- L - Testimony SB 796 -- Catherine M. Dexter -- 2 pages
- M - Testimony SB 902 -- Sample Lindholm -- 3 pages
- N - Proposed Amendments to SB 902 -- staff-- 3 pages
- O - Testimony SB 902 -- Kevin Hanway -- 2 pages
- P - . Testimony SB 902 -- David Nebel -- 2 pages
- Q - Testimony SB 902 -- Frank R. Burleson -- 3 pages

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