

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 78

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 II, Committee Counsel
Julie Clemente, Committee Assistant

MEASURES HEARD:

Work Session	SJR4
Public Hearing	SB 864
	SB 865
	SB 866
	SB 868
	SB 869

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 CHAIR BRYANT: Calls meeting to order.

OPENS PUBLIC HEARING ON SB 's 864, 865, 866, 868, & 869

Testimony: Honorable Wallace P. Carson, Jr., Chief Justice, Oregon Supreme
Court
Implementation Honorable Paul J. Di Muniz, Judge, Oregon Court of Appeals; Chairman,
in the Judicial System Committee, Supreme Court Task Force on Racial/Ethnic Issues
Chairman, Honorable Edwin J. Peterson, Retired Chief Justice, Oregon Supreme Court;
The Oregon Supreme Court Task Force on Racial/Ethnic Issues
Representative Margaret L. Carter, HD #18
Representative Avel L. Gordly, HD #19
David Fidanque, Executive Director, ACLU of Oregon
Patricia O'Sullivan, Assistant Attorney General, Criminal Justice Division
Eugene Organ, Executive Director, Oregon Disabilities Commission
Ingrid Swenson, Oregon Criminal Defense Lawyers Association
Brenda J.P. Rocklin, Oregon Department of Justice
Marc McDonnell, Multnomah County District Attorney's Office
Robert Atkinson, Department of Justice

010 HONORABLE WALLACE P. CARSON, JR., Chief Justice, Oregon Supreme Court:
Introduces panel .

027 HONORABLE EDWIN J. PETERSON, Retired Chief Justice, Oregon Supreme
Court; Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic
Issues: Testifies in support of SB 's 864, 865, 866, 868 and 869.
[EXHIBITS A, B, C, D, E & F] Gives background on Task Force.

078 Our findings are supported by hard data. Explains.

097 HONORABLE PAUL J. DiMUNIZ, Judge, Oregon Court of Appeals; Chairman,
Implementation Committee, Supreme Court Task Force on Racial/Ethnic Issues
in the Judicial System: Testifies in support of SB 's 864, 865, 866, 868
and 869. [EXHIBITS B, C, D, E & F]

148 SB 865 attempts to bring the rest of the law in conformity with what is
already the law in the civil and criminal area. Continues.

184 SB 869 codifies constitutional law. Explains.

199 CHAIR BRYANT: SB 's 864 and 865 have a subsequent referral to Ways and
Means because of anticipated costs. Do you have any cost estimations?

DiMUNIZ: For SB 865 information given was \$56,440 to \$111,880.

229 BRYANT/DiMUNIZ: Continue discussion regarding costs.

245 CHAIR BRYANT: Recommends a subsequent referral to Ways & Means on SB
866.

276 BRYANT/DiMUNIZ: Continue.

308 CHAIR BRYANT: Address the first three bills and then move on to the
latter three.

323 SEN. BAKER: Series of questions. SB 864; how do we proceed orderly without a great amount of delay? Continues.

DiMUNIZ: It is the law. Explains.

372 PETERSON: Task Force heard testimony about this problem in a criminal context. Explains.

410 SEN. BAKER: Continues with questions.

PETERSON: Key language is the language on lines 21 and 22. Explains.

460 SEN. BAKER: Great amount of problems in my own school district. Explains.

474 SEN. SORENSON: Concerned about language in the bill - line 21. What is foreign?

TAPE 77, SIDE A

055 DiMUNIZ: Definition of interpret basically refers to a non-english speaking person. Explains.

062 SORENSON/DiMUNIZ: Continue.

086 CARSON: Recommends striking reference to foreign.

093 CHAIR BRYANT: One other point of clarification, page 3 says "Court may not appoint". Mean agency, don't you?

CARSON: Should be agency.

098 SEN. SPRINGER: On SB 866, do we have a backup agency if the Criminal Justice Council gets defunded?

DiMUNIZ: Have nothing to address that. Explains.

114 SEN. BAKER: On SB 866, will someone from the District Attorney's Association be here to talk to us about that?

CHAIR BRYANT: Yes, we do.

138 CHAIR BRYANT: Refers to SB 868 which deals with jury selection. Specifically lines 24 through 26; would racial or ethnic group also include Caucasians?

PETERSON: Yes.

163 SEN. BAKER: Why do we need SB 868?

PETERSON: Task Force discussed that point. Explains.

182 SEN. SORENSON: Doesn't this make a change in Oregon law?

DiMUNIZ: Yes. Explains.

218 SORENSON/DiMUNIZ: Continue discussion.

233 CHAIR BRYANT: Refers to SB 869. Questions?

255 SEN. SPRINGER: How do we quantify the requirement "there is a likelihood that"?

DiMUNIZ: We envisioned it as a "more likely than not" standard. Explains.

323 SEN. HAMBY: Is "Rap" non-english?

DiMUNIZ: Yes.

353 REPRESENTATIVE MARGARET CARTER, HD #18: Testifies in support of SB 's 864, 865, 866, 868 and 869. [EXHIBIT G]

425 Continues.

469 The thing about institutionalized racism is that no one ever thinks about wanting to remove it. Continues.

TAPE 76, SIDE B

044 Hope that we as a legislative body will give serious consideration to these issues. Continues.

068 REPRESENTATIVE AVEL L. GORDLY, HD # 19. Testifies in support of SB 's 864, 865, 866, 867, 868 and 869. [EXHIBIT H]

146 The price that we pay when we allow injustice to continue in the administration of justice is a real threat to our State. Continues

160 SEN. SORENSON: There is a disparate treatment of people based upon income. Comments?

CARTER: In America we've always had high levels of economic desperation.

Continues.

GORDLY: Clearly economic injustice in our country. Explains.

207 Other bills that touch on the interrupter issue in the House. Explains.

235 DAVID FIDANQUE, Executive Director, American Civil Liberties Union of Oregon: Testifies in support of SB 's 864, 865, 866, 867, 868 and 869.

284 Committee is moving in the right direction. Continues.

291 EUGENE ORGAN, Executive Director, Oregon Disabilities Commission. Testifies in support of SB 864 with amendments [EXHIBIT F] and SB 865. [EXHIBIT J]

364 PATRICIA O'SULLIVAN, Department of Administrative Services: Testifies on SB 864. Department takes a neutral position on bill. Have questions on language of bill; interpretation and clarity issues. Will work with staff.

CHAIR BRYANT: Please work with Mr. Williams for clarification of those points.

404 INGRID SWENSON, Oregon Criminal Defense Lawyers Association: Testifies in support SB 's 865 and 866. SB 865, comments on professional experience in area of juvenile court. Pleased to see recommendation appearing in Section 2 sub 4 which has to do with making sure interpreters are appointed for people who have extended personal involvement with the child. Explains.

TAPE 77, SIDE B

040 With respect to SB 866. Requires the gathering of information on the effect that race has in charging decisions, etc. Refers to pages 3 & 4 of Task Force report, all negatives, no positives. In order to address problem, information must be obtained about why this is happening.

084 SEN. SORENSON: References SB 868 amendment. Do you agree that should be added? Secondly, would you oppose an amendment that would include items that could be a "cause" challenge?

SWENSON: My position would be that those issues need to be addressed separately. Explains.

110 BRENDA J.P. ROCKLIN, Assistant Attorney General, Criminal Justice Division, representing the Attorney General and the Oregon District Attorney's Association: Testifies on SB 's 866, 868 and testifies for Robert Atkinson, Assistant Attorney General on SB 869. Offers proposed amendments on SB 869. [EXHIBIT K]

SB 866 dealing with the collection of data. D.A's have concerns regarding fiscal impact of bill.

141 MARC McDONNELL, Multnomah County District Attorneys Office and the Oregon District Attorney's Association: Testifies in support of SB 's 866 &

868. Amend language to include the basis for the charging decision.

CHAIR BRYANT: Asks that specific language for amendment be given to Mr. Williams.

156 ROCKLIN: Questions language on line 54 "the influence of".

179 SEN. BAKER: Do you know what you are getting into?

McDONNELL: Unclear how that information would be captured. Explains

241 SEN. SORENSON: What will happen to this gathering process if the Council is abolished?

ROCKLIN: Not sure we can address that. Explains.

SEN. SORENSON: Do either of you have any problems with any of the bills in this package?

269 ROCKLIN: Wanted to make some comments on SB 's 868 and 869. SB 869: Submits proposed amendments [EXHIBIT K]

308 SB 868, simply would be another example of "actual bias" which is already in the law.

333 We would propose to move the language into the actual bias section.

345 SEN. SORENSON: Seems interesting a panel of judges would come up with a finding that Oregon's system of justice is racially biased. Do you agree?

McDONNELL: Knows of no deputy district attorney that takes race into consideration when they are charging a case. Continues.

422 Other realities that we have to recognize also. Explains.

CLOSES PUBLIC HEARING ON SB 's 864, 865, 866, 868 and 869

455 OPENS WORK SESSION ON SJR4

TAPE 78, SIDE A

Invited Testimony: Scott Tighe, Election's Manager, Secretary of State's

Office

Ted Reutlinger, Legislative Counsel's Office

044 MAX WILLIAMS: References SJR4-5 amendments.

051 TED REUTLINGER, Legislative Counsel's Office: Explains -5 amendments.
- Section 1(b) is to clarify that any initiative petition that will be on the ballot at the November, 1996 election will operate under the old rules.

- Subsection 2 of Section 1(b) says people gathering signatures will have to comply with the new provisions of SJR4 for any initiative petition appearing on a general election ballot after November, 1996.

070 MAX WILLIAMS: It might be helpful to have Mr. Tighe explain the position of the Secretary of State's office.

074 SCOTT TIGHE, Election's Manager, Secretary of State's Office: Explains initiative process. - Chief petitioners are currently gathering signatures for 1996 general election. Due date for their signatures to be submitted is July 5, 1996.
- Future elections beyond 1996 - not allowed to gather signatures until the signatures for the 1996 election have been submitted to the Secretary of State.
- Amendment would be a good transition period.

095 SEN. SORENSON: Do the -5 amendments provide for the congressional district idea and does it still apply to both statutory and constitutional initiatives?

REUTLINGER: Yes.

SEN. SORENSON: How do you handle the counties that are in more than one congressional district?

109 TIGHE: Split districts require petitioners to have a separate signature sheet for each district. Explains.

122 MAX WILLIAMS: Clarify Section 1(c) of Legislative Counsel's amendments.

REUTLINGER: Section 1(c) amendments are intended to clarify that this resolution does not affect local initiative powers. Only applies to laws and amendments to the state constitution.

133 MOTION: CHAIR BRYANT: Moves that ALL previously adopted dash amendments to SJR4 be WITHDRAWN.

VOTE: Hearing no objection motion CARRIES. All members are present.
SENATOR SPRINGER IS EXCUSED.

3/28/95. MOTION: CHAIR BRYANT: Moves to ADOPT the SJR4 -5 amendments dated

VOTE: SENATOR SORENSON votes NAY. All members are present. SENATOR
SPRINGER IS EXCUSED.

CHAIR BRYANT: The motion CARRIES.

151 MOTION: SENATOR BAKER: Moves that SJR4, AS AMENDED, be sent to the
Floor with a DO PASS recommendation.

SEN. SORENSON: Asks that the requirement of two senators necessary for the filing of a minority report be waived as Senator Springer has left for another meeting.

VOTE: In a roll call vote, SENATORS BAKER, MILLER, STULL and CHAIR BRYANT
vote AYE. SENATOR SORENSON votes NAY. SENATORS HAMBY and SPRINGER ARE
EXCUSED.

CHAIR BRYANT: The motion CARRIES.

CHAIR BRYANT will lead discussion on the Floor.

MOTION: CHAIR BRYANT: Moves to suspend the rules that presently require
two members to file a minority report.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All
members are present. SENATORS HAMBY AND SPRINGER ARE EXCUSED.

159 SEN. SORENSON GIVES NOTICE OF A POSSIBLE FILING OF A MINORITY REPORT ON
SJR4.

CLOSES WORK SESSION ON SJR4

REOPENS PUBLIC HEARING ON SB 's 866, 868 and 869

188 ROCKLIN: Comments on SB 868. Point of clarification - for litigants whether this is directed at statements made only during jury selection proceedings or whether it includes any statement that somebody may have made in the past in addition to some statement they might make in the jury

selection proceedings.

CHAIR BRYANT: Requests that comments and suggestions be submitted to Mr. Williams in writing.

CLOSES PUBLIC HEARING ON SB 's 866, 868 AND 869

Adjourns at 5:25 p.m.

Submitted by:

Reviewed by:

Julie Clemente
Committee Assistant

M. Max Williams II
Committee Administrator/Counsel

EXHIBIT LOG:

A - Testimony SB 's 864, 865, 866, 868, 869 -- Ed Peterson -- 2 pages
B - Testimony SB 864 -- Ed Peterson -- 1 page
C - Testimony SB 865 -- Ed Peterson -- 1 page
D - Testimony SB 866 -- Ed Peterson -- 1 page
E - Testimony SB 868 -- Ed Peterson -- 1 page
F - Testimony SB 869 -- Ed Peterson -- 1 page
G - Testimony SB 's 864, 865, 866, 868, 869 -- Rep. Margaret Carter -- 2
pages
H - Testimony SB 's 864, 865, 866, 868, 869 -- Rep. Avel L. Gordly -- 3 pages
I - Testimony SB 864 -- Eugene Organ -- 5 pages
J - Testimony SB 865 -- Eugene Organ -- 1 page
K - Proposed amendments SB 869 -- Brenda Rockland -- 2 pages