

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 115

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

MEMBER EXCUSED: Sen. Jeannette Hamby

STAFF PRESENT:

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

MEASURES HEARD: Work Session SB 864
SB 865
SB 866

SB 868
SB 869
SB 484
SB 831

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

003 CHAIR BRYANT: Calls committee to order at 3:00 p.m..

007 OPENS WORK SESSION ON SB 484
CLOSES WORK SESSION ON SB 484

019 OPENS WORK SESSION ON SB 864

Invited Testimony: Honorable Edwin J. Petersen, Retired Chief Justice,
Oregon Supreme Court; Chairman, The Oregon Supreme Court Task Force on
Racial/Ethnic Issues
Honorable Paul J. DeMuniz, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System

028 HONORABLE EDWIN J. PETERSEN, Retired Chief Justice, Oregon Supreme
Court; Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic
Issues: Met with representatives of different departments and worked out
agreements satisfactory to everyone regarding language in SB 864 through SB

869.

043 MAX WILLIAMS: SB 864-1 amendments just received from Legislative
Council. Copies are being distributed. [EXHIBIT A]

047 PETERSEN: Reviews amendments. Appear to be consistent with agreement.

051 CHAIR BRYANT: Reviews amendments with committee and representatives of
the task force.

MOTION: CHAIR BRYANT: Moves to ADOPT the SB 864-1

19, 1995.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are

members are present. SENATORS HAMBY

AND STULL ARE EXCUSED.

069 HONORABLE PAUL J. DeMUNIZ, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System. Speaks of deletion, line 13
of SB 864-1 amendments: removes any fiscal impact. Eliminates setting up a
separate certification process. Explains.

079 MAX WILLIAMS: Portions of the bill which referred to placing this
responsibility with the Department of Administrative Services created a
possibility of a dual system. SB 864-1 amendments removed the requirement.

Current system in place with the state court for certifying interpreters
would remain.

088 CHAIR BRYANT: If there is any additional cost, the agency feels it
could absorb the costs without additional budget.

- Will ask President of Senate to remove any subsequent referral to Way &
Means.

MOTION: CHAIR BRYANT: Moves SB 864 be sent to the floor with a DO PASS

AS AMENDED recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion
are present. SENATORS HAMBY AND STULL ARE EXCUSED.

CHAIR BRYANT will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 864

OPENS WORK SESSION ON SB 865

Invited Testimony: Honorable Edwin J. Petersen, Retired Chief Justice,
Oregon Supreme Court; Chairman, The Oregon Supreme Court Task Force on
Racial/Ethnic Issues
Honorable Paul J. DeMuniz, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System

097 HONORABLE EDWIN J. PETERSEN, Retired Chief Justice, Oregon Supreme
Court; Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic
Issues: Have been no changes nor suggested changes.

CHAIR BRYANT: Knows of no amendments. Will be referred to Ways & Means.

107 MAX WILLIAMS: This bill currently has a subsequent referral to Ways &

Means. Estimated fiscal impact for the 95/97 biennium is between \$56,000
to \$111,000.

MOTION: CHAIR BRYANT: Moves SB 865 to the floor with a DO PASS
recommendation and BE REFERRED to the committee on Ways and Means.

VOTE: CHAIR BRYANT: Hearing no objection the motion
are present. SENATORS HAMBY AND STULL ARE EXCUSED.

CLOSES WORK SESSION ON SB 865

114 OPENS WORK SESSION ON SB 866

Invited Testimony: Honorable Edwin J. Petersen, Retired Chief Justice,
Oregon Supreme Court; Chairman, The Oregon Supreme Court Task Force on
Racial/Ethnic Issues
Honorable Paul J. DeMuniz, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System

CHAIR BRYANT: This bill deals with collection of data. Refers to SB 866-1
amendments. [EXHIBIT B]

122 MAX WILLIAMS: Explains amendments. Simply strikes the words "district
attorneys" from line 24. Continues.

- Refers to one other amendment not included in 866-1. Line 25 of the
bill, word "determinedly" was to be stricken and replaced with "report."

HONORABLE EDWIN J. PETERSEN, Retired Chief Justice, Oregon Supreme Court;
Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic Issues: One

other change - line 24, words "the influence of" should be stricken.

MAX WILLIAMS: Not picked up in the - 1 amendments. Restates language on
line 24.

143 SEN. BAKER: Not very clear. Report data upon race?

MAX WILLIAMS: Explains. You are requiring the counsel to collect the
data and report if racial bias in the charging process.

152 SEN. BAKER: Understand, don't like the way it is said.

WILLIAMS/SEN. BAKER: Discussion

161 PETERSEN: Discussed this at some length. Law is written in general
terms. Explains.

MOTION: CHAIR BRYANT: Moves to ADOPT SB 866-1 amendments dated
04/19/95.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are
All members are present. SENATORS HAMBY AND STULL ARE EXCUSED.

179 MAX WILLIAMS: Explains additional changes:
- Line 24, remove the words "influence of."
- Line 25, remove the word "determine" and insert the word "report."

189 MOTION: CHAIR BRYANT: Moves that SB 866 be further amended

the words "influence of" on line 24 and deleting the word "determine" and
inserting the word "report" on line 25.

VOTE: CHAIR BRYANT: Hearing no objection the additional SB 866
are ADOPTED. All members are present. SENATORS HAMBY AND STULL ARE
EXCUSED.

193 MAX WILLIAMS: Reports that the criminal justice council estimates a

cost of \$311,000.

MOTION: CHAIR BRYANT: Moves SB 866 to the floor with a DO
recommendation and BE REFERRED to the committee on Ways and Means.

PASS AS AMENDED

VOTE: SENATORS BAKER, SORENSON, SPRINGER, AND
SENATOR MILLER votes NAY. All members are present. SENATORS HAMBY AND
STULL ARE EXCUSED.

CHAIR BRYANT: The motion CARRIES.

CLOSES WORK SESSION ON SB 866

199 OPENS WORK SESSION ON SB 868

Invited Testimony: Honorable Edwin J. Petersen, Retired Chief Justice,
Oregon Supreme Court; Chairman, The Oregon Supreme Court Task Force on
Racial/Ethnic Issues
Honorable Paul J. DeMuniz, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System
Robert Atkinson, Oregon Department of Justice
Brenda J. P. Rocklin, Oregon Department of Justice

CHAIR BRYANT: Speaks of the SB 868-1 amendment.[EXHIBIT C] Have you had
an opportunity to review and does it conform to what the group suggested?

204 HONORABLE EDWIN J. PETERSEN, Retired Chief Justice, Oregon Supreme
Court; Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic
Issues: The language of Legislative Council is substantially different,
but I think it does what we want it to do.

210 MAX WILLIAMS: There was input on SB 868 from the Department of
Justice, the Oregon District Attorneys Association and the Oregon State
Bar's Procedure and Practice Committee along with Justice Petersen and
others. Continues.

221 SEN. BAKER: Dash 1, line 8; phraseology "a sex" - - - How can you be a
member of a sex?

228 CHAIR BRYANT: Do you have some alternate language?

237 MAX WILLIAMS: There was a discussion using gender versus using sex.
Explains

SEN. BAKER: Sex is a biological function and gender is a social term.

249 PETERSEN: That's exactly right. Continues.

251 BRENDA J. P. ROCKLIN, Oregon Department of Justice: We weren't
directing this at sexual orientation. We were concerned with gender.
Explains

259 SEN. BAKER: Don't have a problem with sex or gender, just the
phraseology, the way it comes together.

262 CHAIR BRYANT: If we said, "the sex of the party, the party's attorney,
a victim or a witness?"

PETERSEN: Exactly the suggestion I was going to make.

274 MOTION: SEN. BRYANT: Moves to ADOPT SB 868-1 amendments dated
04/19/95 and that SB 868-1 be further amended on line 8, by deleting "a"
after (iii) and inserting "the" and delete "that" and insert "of" and that
SB 868-1 be further amended on line 9, by deleting "is a member of".

VOTE: SEN. BRYANT: Hearing no objection the amendments are ADOPTED. A
members are present. SENATORS HAMBY AND STULL ARE EXCUSED.

281 ROCKLIN: A problem with the -1 amendments has been called to my
attention. Believes that the -1 amendments would delete lines 26 through
36. That does not appear to be correct. Explains.

CHAIR BRYANT: Should be through 33?

ROCKLIN: Don't believe so. Explains.

295 CHAIR BRYANT: Was that the consensus of the work group?

HONORABLE PAUL J. DeMUNIZ, Associate Judge, Oregon Court of Appeals;
Chairman, Implementation Committee, Supreme Court Task Force on
Racial/Ethnic Issues in the Judicial System. Yes.

CHAIR BRYANT/ROCKLIN: Discussion

MOTION: CHAIR BRYANT: Moves that SB 868-1 amendments be
deleting lines 13 through 15. In addition, line 30 of the bill D(1)(h)
should be deleted.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are
members are present. SENATORS HAMBY AND STULL ARE EXCUSED.

318 MOTION: CHAIR BRYANT: Moves SB 868 be sent to the floor with a DO
PASS AS AMENDED recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion
are present. SENATORS HAMBY AND STULL ARE EXCUSED.

SENATOR SORENSON will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 868

325 OPENS WORK SESSION ON SB 869

Invited Testimony: Honorable Edwin J. Petersen, Retired Chief Justice,
Oregon Supreme Court; Chairman, The Oregon Supreme Court Task Force on
Racial/Ethnic Issues
Robert Atkinson, Oregon Department of Justice

CHAIR BRYANT: Refers to SB 869-1 amendments. [EXHIBIT D]

331 HONORABLE EDWIN J. PETERSEN, Retired Chief Justice, Oregon Supreme
Court; Chairman, The Oregon Supreme Court Task Force on Racial/Ethnic
Issues: SB 869-1 amendments appear to be correct with one exception.
Explains

343 CHAIR BRYANT: Would you briefly tell us what you agreed on at your
meeting?

349 PETERSEN: Principle purpose of changes was to create a procedure for
the exercise of challenges that are mandated by decisions of the Supreme
Court of the United States.
- Amendment to line 10 following the word "conducted," would require that
preemptory challenges be conducted either by written ballot or outside the
presence of the jury
- Line 23, add word "sex" which is consistent with other changes
- New language at lines 24 and 25; simply a codification of existing law,
adding word "sex" in addition race or ethnicity.
- Remainder simply codify the procedure.

399 SEN. BAKER: On page 2 line 34 original bill, there is a "likelihood".
Did we change that language?

PETERSEN: We deleted that.

410 SEN. BAKER/PETERSEN: Discussion.

422 MAX WILLIAMS: Speaks to conversation with Legislative Council today.
They expressed a concern using the word "prima facie". Doesn't really mean
anything in their opinion. Explains.

443 PETERSEN: We are revisiting discussion we had at earlier hearing.
Language is the very language used by the Supreme Court of the United
States. Continues.

456 ROBERT ATKINSON, Oregon Department of Justice: The prima facie case
language is the language used by the United States Supreme Court.
Explains.

475 SEN. BAKER: The word "primarily" is used on page 2, lines 34, 39 and
43. Taking those out? .

MAX WILLIAMS: Repeat the numbers again.

SEN. BAKER: Lines 34, 37, 39 and 43.

TAPE 115, SIDE A

040 MAX WILLIAMS: Yes.

044 MOTION: CHAIR BRYANT: Moves to ADOPT SB 869-1 amendments dated
04/19/95 and that SB 869-1 be further amended on line 1, by deleting
"secret" and inserting "written".

VOTE: CHAIR BRYANT: Hearing no objection the amendments are
members are present. SENATORS HAMBY AND STULL ARE EXCUSED.

MOTION: SEN. BRYANT: Moves SB 869 be sent to the floor with a DO PASS AS
AMENDED recommendation.

SEN. BAKER: Did we take out the "primarily" on the lines I indicated?

MAX WILLIAMS: The amendments do that.

SEN. BAKER: Where?

049 ATKINSON: On line 11, where you deleted lines 36, through 45 and
substituted the language that follows: Line 11 of the -1 amendments.

SEN. BAKER/ATKINSON: Discussion.

VOTE: CHAIR BRYANT: Hearing no objection the motion
are present. SENATORS HAMBY AND STULL ARE EXCUSED.

SENATOR SPRINGER will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 869

067 CHAIR BRYANT: Recess.

OPENS WORK SESSION ON SB 484

079 CHAIR BRYANT: Bill deals with limited liability partnerships. Presents
proposed amendments. Similar to SB 484-3 amendments. [EXHIBIT E]
Explains.

- Suggests to limit the limited liability partnership concept to professionals.
- Definition of professional - provided under current professional corporation statute ORS 58.037 with some additions. Explains.

MOTION: CHAIR BRYANT: Moves to conceptually ADOPT SB 484 deleting line 23 on page one of the printed bill and insert a definition for professional which is the same as defined in ORS 58.037(2).

VOTE: CHAIR BRYANT: Hearing no objection the amendments are members are present. SENATORS HAMBY, SORENSON, AND SPRINGER ARE EXCUSED.

CHAIR BRYANT: Refers to SB 484-2 amendments.[EXHIBIT H] Have not been adopted and there are no objections from sponsors of the bill.

MOTION: CHAIR BRYANT: Moves to ADOPT SB 484-2 amendments dated 04/07/95.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are members are present. SENATORS HAMBY, SORENSON, AND SPRINGER ARE EXCUSED.

MOTION: CHAIR BRYANT: Moves SB 484 be sent to the floor with a DO PASS AS AMENDED recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion are present. SENATORS HAMBY, SORENSON, AND SPRINGER ARE EXCUSED.

SENATOR BRYANT will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 484

123 CHAIR BRYANT: Speaks to SB 831-1 amendments. [EXHIBIT G]

127 MAX WILLIAMS: Explains SB 831-1 Amendments. Purpose of amendments was to grant certain rule-making authority to the Department of Justice. Lowers certain percentages from 18% to 17%.

RECESS

OPENS WORK SESSION ON SB 831

Invited Testimony: Greg Hitchcock, Oregon Sports Academy
John Nichols, Oregon State Rifle Association

157 GREG HITCHCOCK, Oregon Sports Academy: Explains SB 831-1 amendments. [EXHIBIT G] Additional testimony received prior to meeting. [EXHIBIT F]

162 MAX WILLIAMS: References line 16. Reason for restoring subsection a, line 19 creates a subsection b.

171 HITCHCOCK: The big change in the bill is at page 5. Explains.

184 CHAIR BRYANT: I have no problem with public policy to do that. Just being sure we weren't inviting a law suit.

HITCHCOCK: I think we might. Explains.

210 SEN. BAKER: Would you explain to me the breakdown again and where the funds are going?
Eighty percent goes to prizes?

HITCHCOCK: That will be the legal maximum. Explains.

SEN. BAKER: Why do we go the maximum on prizes?

HITCHCOCK: To ensure that there is some cap to protect themselves. Explains.

223 SEN. BAKER: Total prizes cannot exceed 80%.?

HITCHCOCK/SEN. BAKER: Discussion.

237 CHAIR BAKER: Mr. Nichols, how do you feel about the SB 831-1 amendments?

JOHN NICHOLS, Oregon State Rifle Association: "With removing the requirement that you absolutely had to make 6% profit we are comfortable with these amendments."

CHAIR BRYANT: We don't have the votes to move the bill today.

251 CLOSES WORK SESSION ON SB 831

CHAIR BRYANT: Adjourns at 5:20 p.m.

Submitted by:

Reviewed by:

Julie Clemente
Committee Assistant

M. Max Williams II
Committee Administrator/Counsel

EXHIBIT LOG:

A -- Proposed Amendments SB 864 -- Staff -- 1 page
B -- Proposed Amendments SB 866 -- Staff -- 1 page
C -- Proposed Amendments SB 868 -- Staff -- 1 page
D -- Proposed Amendments SB 869 -- Staff -- 1 page
E -- Proposed Amendments SB 484 -- Staff -- 1 page

F -- Testimony SB 831 -- Greg Hitchcock -- 2 pages
G -- Proposed Amendments SB 831 -- Staff -- 2 pages
H -- Proposed Amendments SB 484 -- Staff -- 2 pages