

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes

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:

BILL TAYLOR, Committee Counsel
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

SB 618 - PUBLIC HEARING
SB 681 - PUBLIC HEARING
SB 817 - PUBLIC HEARING
SB 856 - PUBLIC HEARING
SB 857 - PUBLIC HEARING
SB 870 - PUBLIC HEARING
SB 1106 - PUBLIC HEARING
SB 220 - WORK SESSION
SB 618 - WORK SESSION

SB 681 - WORK SESSION
SB 817 - WORK SESSION
SB 856 - WORK SESSION
SB 992 - WORK SESSION
SB 1138 - WORK SESSION

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 122, A

003 CHAIR BRYANT: Opens the meeting at 3:00 p.m. SB 1096 has been canceled
for today.

Opens PUBLIC HEARING on SB 618

WITNESSES: Candace Hissong, President, Justice of the Peace Association
Stephen Miller, Justice of the Peace, Douglas County

020 CANDACE HISSONG, President, Justice of the Peace Association:
Testifies and submits written testimony in favor of SB 618 [EXHIBIT A].

050 CHAIR BRYANT: How many counties in Oregon have JP's?

052 HISSONG: Most counties have one or two.

089 STEPHEN MILLER, Justice of the Peace, Douglas County: Testifies and
submits written testimony with proposed amendments to SB 618 [EXHIBIT B].

120 SEN. SORENSON: Are there any JP's districts that cross county
boundaries?

122 HISSONG: No.

165 SEN. SORENSON: How are JP's removed?

168 HISSONG: As pro-tem they can be removed by order of the county
commissioner.

213 SEN. SPRINGER: How is the salary for JP's determined?

216 HISSONG: Salary of pro-tem is equal to JP's salary and is not set by
statute.

Closes PUBLIC HEARING on SB 618

Opens WORK SESSION on SB 618

238 MOTION: CHAIR BRYANT: Moves to ADOPT SB 618-2 amendments.

240 VOTE: Hearing no objections, the amendment are ADOPTED. All members
present vote AYE. SEN. MILLER IS EXCUSED.

248 MOTION: SEN. HAMBY: Moves SB 618 AS AMENDED be sent to the floor
with a DO PASS AS recommendation.

249 MOTION: SEN. SORENSON: Moves to conceptually ADOPT an amendment to SB
618 to limit number of Pro Tem Justice of the Peace officials to a maximum
of 3 per district with language limiting appointment time to "not for a
period exceeding one year" on line 13.

255 CHAIR BRYANT: Senator Hamby withdraws her motion.

257 VOTE: Hearing no objections, the amendment is ADOPTED. All members
present vote AYE. SEN. MILLER IS EXCUSED.

270 MOTION: SEN. HAMBY: Moves SB 618 AS AMENDED be sent to the floor
with a DO PASS recommendation.

273 VOTE: 5 - 1 MOTION CARRIES
AYE: Bryant, Hamby, Springer, Sorenson, Stull
NAY: Baker
SEN. MILLER IS EXCUSED
Sen. Bunn will carry the bill to the Floor.

Closes WORK SESSION on SB 618

Opens PUBLIC HEARING on SB 1106

WITNESSES: Mike Livingston, Assistant Attorney General, Department of
Justice
Rick Hill, Assistant Administrator, Children's Services Division
Mary Botkin, AFSCME
Brian Simonitch, Parole Officer, Children's Service Division
Larry OgleSB y, Director, Marion County Juvenile Department
Charles Ryer, Assistant Director Department of Youth Services, Lane County
Juvenile Department
Paul Synder, Association of Oregon Counties

290 MIKE LIVINGSTON, Assistant Attorney General, Department of Justice:
Testifies and
submits written testimony in support of SB 1106 [EXHIBIT C].

345 RICK HILL, Assistant Administrator, Children's Services Division,
Department of Human Resources: Testifies and submits written testimony in
opposition to SB 1106 [EXHIBIT D].
355 - expresses concerns

375 BILL TAYLOR: Can we take care of these concerns in SB 1?

380 LIVINGSTON: Committee's decision should be consistent to SB 1.

402 SEN. SPRINGER: Is this giving the counties a blank check?

405 HILL: Currently we have a contract with 33 of 36 counties under HB
2045.
415 - plan to expand HB 3438 and fold state and counties into old diversion
contracts

450 SEN. SPRINGER: What does Rep. Meeks intend?

455 HILL: Some of his amendments include part of SB 1106.

TAPE 123, A

050 MARY BOTKIN, AFSCME: Testifies in opposition to SB 1106. Don't support

Deschutes County Plan which is now the state's plan.
063 - opposes transfer language

094 BRIAN SIMONITCH, Parole Officer, Children's Services Division, OPEU
Member: Testifies in opposition to SB 1106.
100 - opposes county takeover of state services
150 - continues

175 LARRY OGLESB Y, Director, Marion County Juvenile Department, Oregon
Juvenile Department Associations: Testifies and submits written testimony
on SB 1106 [EXHIBIT G].
200 - bill removes sunset provision from HB 3438
- explains purpose of bill

260 CHARLES RYER, Assistant Director, Department of Youth Services, Lane
County Juvenile Department: Testifies in support of SB 1106. Discusses
management of employee transfer.

290 PAUL SYNDER, OREGON Association of Counties: Testifies and submits
written testimony in support of SB 1106 [EXHIBITS E & F].

Closes PUBLIC HEARING on SB 1106

Opens PUBLIC HEARING on SB 681

WITNESSES: Bob Joondeph, Executive Director, Oregon Advocacy Center
Barry Kast, Assistant Director, Department of Human Resources,
Administrator for Mental Health and Developmental Disabilities Services
Division

369 BOB JOONDEPH, Executive Director, Oregon Advocacy Center: Testifies and
submits written testimony in support of SB 681 [EXHIBIT H].
420 - continues

460 CHAIR BRYANT: Why did you delete the standard of proof statement?

470 JOONDEPH: The hearing has a clear and convincing evidence standard.

TAPE 122, B

050 SEN. SORENSON: Does bill make changes in criminal law affecting people other than those with mental deficiencies or illness?

055 JOONDEPH: No.

081 BARRY KAST, Assistant Director, Department of Human Resources, Administrator for Mental Health and Developmental Disabilities Services Division: Testifies and submits written testimony on SB 681 [EXHIBIT I].
100 - would support bill if language on mental retardation was deleted

Closes PUBLIC HEARING on SB 681

Opens WORK SESSION on SB 681

120 MOTION: CHAIR BRYANT: Moves to ADOPT amendment to SB 681 by deletion in
line 15 of "or mental retardation", on line 16 deletion of "or 427.235 to
427.290" and addition "to 426.130".

128 VOTE: Hearing no objections, the amendment is ADOPTED . All members
present vote AYE. SENS. BAKER, MILLER, STULL ARE EXCUSED.

130 MOTION: SEN. HAMBY: Moves SB 861 AS AMENDED to the Floor with a
DO PASS recommendation.

132 VOTE: Hearing no objections, the motion CARRIES. All members
present vote AYE. SENS. BAKER, MILLER, STULL ARE EXCUSED. Sen.
Sorenson will carry the bill to the Floor.

Closes WORK SESSION on SB 861

Opens PUBLIC HEARING on SB 870

WITNESSES: Brenda Rocklin, Assistant Attorney General, Department of Justice
Fred Avera, Oregon District Attorney's Association
Dee Dee Kouns, President, Crime Victim's United
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association
Ralph Smith, Oregon Criminal Defense Lawyer's Association
Dale Pen, Oregon District Attorney's Association

150 BRENDA ROCKLIN, Assistant Attorney General, Department of Justice:
Testifies and submits written testimony with proposed amendments in favor
of SB 870 [EXHIBITS J & K].

200 SEN. SPRINGER: When does the jury get involved in sentences other than
death penalty cases?

202 ROCKLIN: They don't.

250 ROCKLIN: Explains purpose of amendments.

277 FRED AVERA, Oregon District Attorney's Association: Testifies in
support of SB 870.

305 - refers to Metz case with aggravating evidence
339 - favors victim impact evidence
380 - would bring Oregon law in accordance with federal law

406 DEE DEE KOUNS, President, Crime Victim's United: Testifies in support
of SB 870.

- believes victims need to be a part of the procedure
470 - understands fears of DA that they will loose when family of victim
testifies

TAPE 123, B

050 SEN. SORENSON: On what crimes do the victims not get to present victim
impact evidence?

064 ROCKLIN: On advice of Department of Justice, most of them have been
cautious in presenting any victim impact evidence at all.

079 AVERA: We are unsure of what the law is.

135 SEN. SPRINGER: Expresses philosophical problem with bill.

150 KOUNS: The victims are put on trial and their names are blackened.

170 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association:
Introduces Mr. Ralph Smith.

181 RALPH SMITH: Oregon Criminal Defense Lawyer's Association: Testifies in

opposition to SB 870. Mitigating evidence must be admitted.

216 - speaks to the victims testimony
250 - Oregon death statute was modeled after Texas model
300 - if victims statement is involved in death penalty it will increase
litigation

315 DALE PEN, Marion County District Attorney, Oregon District Attorney's
Association:

We propose evidence rules as that is what we know.
330 - victim impact statement is nothing more than what US Supreme Court
says is constitutional
360 - victim gets trashed now in the proceedings

Closes PUBLIC HEARING on SB 870

400 CHAIR BRYANT: We will ask you to put together a work group on this issue.

Opens PUBLIC HEARING on SB 856

WITNESSES: Bob Joondeph, Executive Director, Oregon Advocacy Center
Barry Kast, Assistant Director, Department of Human Resources, Mental Health and Developmental Disabilities Services Division
Bud Byers, Former Legislator

460 BOB JOONDEPH: Executive Director, Oregon Advocacy Center: Testifies and submits written testimony in support of SB 856 [EXHIBIT L].

TAPE 124, A

050 - explains purpose of his agency

090 BARRY KAST, Assistant Director, Department of Human Resources, Administrator for Mental Health and Developmental Disabilities Services Division: Testifies in opposition to SB 856 [EXHIBIT N].

100 - recommends deleting line 3, in Section 2, page 2
110 - line 12 language added should be deleted
112 - lines 29-31, delete second sentence, in Section 4

130 CHAIR BRYANT: Mr. Byers I know you have amendments. This was a bill introduced in another committee and didn't receive a hearing.

145 BUD BYERS, Former Legislator: Testifies and submits written testimony with proposed amendments to SB 856 [EXHIBITS M, O, & EE]. We felt our proposed amendments would not do harm to the bill.

150 CHAIR BRYANT: Your amendments will change the tone of this bill. I suggest you introduce your bill early in the next session.

Submitted for the record testimony from Velma Hartwig [EXHIBIT DD]

Closes PUBLIC HEARING on SB 856

Opens WORK SESSION on SB 856

280 MOTION: CHAIR BRYANT: Moves to ADOPT amendment to SB

856 by deleting line 2, page 12; lines 29-31; and line 3 on page 2; deleting "the system has determined" on deleting the second sentence of subparagraph 4, page 2, deleting language in bold print in Section 4, line 18.

282 VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SEN. SORENSON IS EXCUSED.

285 MOTION: SEN. HAMBY: Moves SB 856 AS AMENDED be sent to the Floor with a DO PASS recommendation.

287 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE. SEN. SORENSON IS EXCUSED.

Closes WORK SESSION on SB 856

Opens PUBLIC HEARING on SB 817

WITNESSES: Sonya Fischer
John Ellis, Assistant Administrator, Support Enforcement Division, Department of Justice.
Betty Uchytil, Assistant Administrator, Children's Services Division, Department of Human Resources

305 SONYA FISCHER: Testifies and submits written testimony in support of SB 817 [EXHIBITS P & Q].
350 - continues relating personal experiences with Support Enforcement Division

370 JOHN ELLIS, Assistant Administrator, Support Enforcement Division, Department of Justice: Testifies in support of SB 817.

406 BETTY UCHYTIL, Assistant Administrator, Children's Services Division, Department of Human Resources: Testifies and submits written testimony in support of SB 817 [EXHIBIT R].

465 CHAIR BRYANT: Suggests language change from "shall" to "shall attempt to" in lines 19-21.

Submitted for the record testimony from Mike Weatherby [EXHIBIT S]
Submitted for the record testimony from Kimberly Smith [EXHIBIT T]
Submitted for the record testimony from Lynne Cartwright [EXHIBIT U]
Closes PUBLIC HEARING on SB 817

Opens WORK SESSION on SB 817

TAPE 125, A

030 MOTION: CHAIR BRYANT: Moves to ADOPT amendment to SB 817 by changing "shall" agreement entered to "shall attempt to" on line 19, and last sentence to begin "any into shall set out, etc."

041 VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SENS. MILLER, SORENSON ARE EXCUSED.

043 MOTION: SEN. BAKER: Moves SB 817 AS AMENDED be sent to the Floor with a DO PASS recommendation.

045 VOTE: Hearing n objections, the motion CARRIES. All members present vote

AYE. SENS. MILLER, SORENSON ARE EXCUSED. Sen. Baker will carry the bill to the Floor.

Closes WORK SESSION on SB 817

Opens PUBLIC HEARING on SB 857

WITNESSES: Bob Joondeph, Executive Director, Oregon Advocacy Center
Services Division Barry Kast, Administrator for Mental Health and Developmental Disabilities

050 BOB JOONDEPH, Executive Director, Oregon Advocacy Center: Testifies in support of SB 857 with proposed amendment [EXHIBITS V & W].
075 - concern is whether person received adequate care and treatment prior to death
090 - wants independent third party to look at situation when person dies

109 BARRY KAST, Assistant Director, Department of Human Resources, Administrator for Mental Health and Developmental Disabilities Services Division: Testifies and submits written testimony on SB 857 [EXHIBIT X].
130 - opposes amendments as it imposes a work load
- in event we make error in judgment we would be subject to liability

Closes PUBLIC HEARING on SB 857

Opens WORK SESSION on SB 1138

160 BILL TAYLOR: We have amendments which are technical with exception of child vaccination requirements [EXHIBIT Y].

175 MOTION: CHAIR BRYANT: Moves to ADOPT SB 1138-1 amendments dated 4-25-95.

178 VOTE: Hearing no objections, the amendments are ADOPTED. All members present vote AYE. SENS. BAKER, SORENSON ARE EXCUSED.

180 MOTION: CHAIR BRYANT: Moves SB 1138 AS AMENDED be sent to the Floor with a DO PASS recommendation.

182 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE. SENS. BAKER, SORENSON ARE EXCUSED. Sen. Hamby will carry the bill to the Floor.

Closes WORK SESSION on SB 1138

Opens WORK SESSION on SB 220

WITNESS: Jannine Robbin, Medicaid Fraud Unit, Department of Justice

189 JANNINE ROBBIN, Medicaid Fraud Unit, Department of Justice: Testifies in support of SB 220 with proposed amendments [EXHIBITS Z & AA].

210 MOTION: SEN. HAMBY: Moves to ADOPT SB 220-1 amendments.

211 VOTE: Hearing no objections, the amendments are ADOPTED. All members present vote AYE. SENS. BAKER, BRYANT, SORENSON ARE EXCUSED.

214 MOTION: SEN. HAMBY: Moves to ADOPT the Department of Justice amendments to SB 220.

216 VOTE: Hearing no objections, the amendments are ADOPTED. All members present vote AYE. SENS. BAKER, BRYANT, SORENSON ARE EXCUSED. SEN. MILLER will carry the bill to the Floor.

Closes WORK SESSION on SB 220

Opens WORK SESSION on SB 992

250 JIM HILL, Legislative Assistant to Sen. Hamby: Testifies and submits written testimony with proposed amendments in favor of SB 992 [EXHIBITS BB & CC].

280 MOTION: SEN. HAMBY: Moves to ADOPT SB 992-1 amendments dated 4-6-95.

285 VOTE: Hearing no objections, the amendments are ADOPTED. All members present vote AYE. SENS. BAKER, SORENSON ARE EXCUSED.

290 SEN. SPRINGER: Questions where this will go in ORS.

310 MOTION: SEN. HAMBY: Moves SB 992 AS AMENDED be sent to WAYS AND MEANS.

312 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE. SENS. BAKER, SORENSON ARE EXCUSED.

Closes WORK SESSION on SB 992

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

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 618 - Candace Hissong - 2 pages
B - Testimony on SB 618 - Stephen Miller - 4 pages
C - Testimony on SB 1106 - Mike Livingston - 6 pages
D - Testimony on SB 1106 - Rick Hill - 6 pages
E - Testimony on SB 1106 - Paul Synder - 16 pages
F - Testimony on SB 856 - Elisa Towler - 3 pages
G - Testimony on SB 1106 - Larry OgleSB y - 2 page
H - Testimony on SB 861 - Bob Joondeph - 2 pages
I - Testimony on SB 861 - Barry Kast - 1 page
J - Testimony on SB 870 - Brenda Rocklin - 35 pages
K - Proposed Amendments to SB 870 - Brenda Rocklin - 1 page
L - Testimony on SB 856 - Bob Joondeph - 2 pages
M - Proposed Amendments to SB 856 - Staff - 5 pages
N - Testimony on SB 856 - Barry Kast - 2 pages
O - Testimony on SB 856 - Bud Byers - 1 page
P - Testimony on SB 817 - Sonya Fischer - 2 pages
Q - Testimony on SB 817 - Sonya Fischer - 1 page
R - Testimony on SB 817 - Betty Uchyttil - 1 page
S - Testimony on SB 817 - Mike Weatherby - 1 page
T - Testimony on SB 817 - Kimberly Smith - 2 pages
U - Testimony on SB 817 - Lynne Cartwright - 1 page
V - Proposed Amendments on SB 857 - Staff - 2 pages
W - Testimony on SB 857 - Bob Joondeph - 2 pages
X - Testimony on SB 857 - Barry Kast - 1 page
Y - Proposed Amendments to SB 1138 - Staff - 2 pages
Z - Testimony on SB 220 - Staff - 1 page
AA - Proposed Amendments to SB 220 - 1 page
BB - Proposed Amendments to SB 992 - Staff - 3 pages
CC - Testimony on SB 992 - Jeannette Hamby - 1 page
DD - Testimony on SB 856 - Velma Hartwig - 2 pages
EE - Testimony on SB 856 - Bud Byers - 1 page