

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 127

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. Randy Miller, Vice-Chair

STAFF PRESENT:

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

MEASURES HEARD: Work Session: SB 276
Public Hearing & Work Session: SB 1060
Public Hearing & Work Session: SB 1142
Public Hearing & Work Session: SB 1143
Public Hearing: HB 2335
Public Hearing & Work Session: HB 2572

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 meeting to order.

OPENS WORK SESSION ON SB 276

Invited Testimony: Bob Shoemaker, Multnomah County Medical Society
Al Thompson, Thompson & Associates

010 BOB SHOEMAKER, Multnomah County Medical Society. Offers hand engrossed
version of SB 276 [EXHIBIT A] and reviews further deletions requested by
insurance industry.
- Page 5 lines 6, 7, & 8.
- Dash 3 amendments on line 9, regarding genetic characteristics - delete.
- Section 10
- Section 11

072 SEN. SPRINGER: Distributes some background information on topic.
[EXHIBITS E & F]
- Information regarding California's law and information from California's
State Assembly
- Counsel of State Government's Report

084 CHAIR BRYANT: They are the second state in the union to have adopted
it?

SEN. SPRINGER: Not sure, in the very early stages. Explains.

087 SHOEMAKER: Believes if Oregon adopts bill, will be the fourth state in
the nation with some laws relating to genetic privacy.

MOTION: CHAIR BRYANT: Moves to ADOPT hand engrossed SB 276 amendments
dated 04/25/95 submitted by Bob Shoemaker with additional changes.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All
members are present. SEN. MILLER IS EXCUSED.

MOTION: CHAIR BRYANT: Moves SB 276 be sent to the floor with a DO PASS AS
AMENDED recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members
are present. SEN. MILLER IS EXCUSED.

CHAIR BRYANT will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 276

OPENS PUBLIC HEARING ON SB 1060

Testimony: John Kauffman, Clackamas County Clerk
Gay Fields, Oregon Association of County Clerks

110 JOHN KAUFFMAN, Clackamas County Clerk: Testifies in support of SB 1060
and offers proposed amendments. [EXHIBIT B]
- Allows County Clerks to accept payment for services performed outside
courthouse and office hours.

- Section 3, increases fees for Clerks performing marriages and allows for charging fees when a deputy clerk acts as a witness to such ceremonies.

141 CHAIR BRYANT: How many marriages do you perform both on and off duty in a year?

145 GAY FIELDS, Oregon Association of County Clerks: Could be busy every weekend. Explains.

154 CHAIR BRYANT: Might there be some public relations problems by charging for your staff's time in acting as witnesses?

FIELDS: I do not charge for use of staff. Explains.

162 MAX WILLIAMS: Speaks of conversation with Deschutes County Clerk. Indicated in 70% of weddings performed, she has to pull people off the counter to act as witnesses.

172 SEN. BAKER: Who is the fee paid to?

FIELDS: Fee is paid to the county.

188 MAX WILLIAMS: The SB 1060-1 amendments delete changes in the bill which would have changed the way a church or minister files evidence of authority to solemnize marriages. Explains.

Additional Testimony for Record:
Written Testimony in support of SB 1060 submitted by Donald W. Jenkins, Lincoln County Clerk. [EXHIBIT G]

CLOSES PUBLIC HEARING ON SB 1060
OPENS WORK SESSION ON SB 1060

MOTION: SEN. BAKER: Moves to ADOPT SB 1060-1 amendments dated 4/24/95.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. A
members are present. SEN. MILLER IS EXCUSED.

MOTION: SEN. BAKER: Moves SB 1060 be sent to the floor with a DO AS AMENDED recommendation. PASS

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. A
are present. SEN. MILLER IS EXCUSED.

CHAIR BRYANT will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 1060

OPENS PUBLIC HEARING ON SB 1142

215 Testimony: Bob Olson, Oregon State Bar
Milton C. Lankton, Attorney, Davis Wright Tremaine; Chair, Legislative
Committee, Oregon State Bar Section on Real Estate and Land Use
and the Eugene L. Grant, representing The Portland Association of Building Owners
Institute of Real Estate Managers

243 BOB OLSON, Oregon State Bar: Gives some background on SB 1142.
Introduces Milt Lankton.

252 MILTON C. LANKTON, Attorney, Davis Wright Tremaine; Chair, Legislative
Committee, Oregon State Bar Section on Real Estate and Land Use: Testifies

in support of SB 1142. [EXHIBIT H]

331 All the lawyers on our two committees feel that you can't tell that the
Supreme Court would require these two types of provisions. Explains.

373 Result will be that people in the future will know what they are doing
when they are negotiating a lease. Continues.

395 CHAIR BRYANT: That is the way I would read it. Continues.

406 LANKTON: Confusion is the specific language. Explains.

419 MAX WILLIAMS: Refers to SB 1142-1 amendments [EXHIBIT I] Simply a
change to the definition of tenant.

432 LANKTON: Perfectly acceptable.

436 SEN. BAKER: What is the public policy consideration about why we should
be reversing a case in the State's report?

LANKTON: This doesn't reverse the case. Explains.

TAPE 127, SIDE B

038 LANKTON: Should be able to tell by looking at the lease whether or not
you can do it. Continues.

048 SEN. BAKER: Couldn't you ask them to reissue the opinion?

LANKTON: Original parties might have. Continues.

053 EUGENE L. GRANT, Representing The Portland Association of Building Owners and Institute of Real Estate Managers: Testifies in opposition to SB 1142. [EXHIBIT J]

100 Tenants can, through their attorneys, negotiate for a provision that explicitly requires the landlord to be reasonable. Continues.

140 CHAIR BRYANT: Wouldn't this legislation add definition to an area where it's not ascertainable from the face of the lease?

GRANT: Actually think this bill will create more uncertainty and more problems than it solves. Explains.

163 CHAIR BRYANT: This is limited. Continues.

GRANT: Not so sure of that. Explains.

170 CHAIR BRYANT/GRANT: Discussion

232 CHAIR BRYANT: I think we have the arguments down here. Requests parties to continue negotiations until later.

CLOSES PUBLIC HEARING ON SB 1142

OPENS PUBLIC HEARING ON SB 1143

246 CHAIR BRYANT: No witnesses.

251 SEN. SPRINGER: Introduced to expedite and resolve at reduced costs to potential litigants issues arising from any appeals or judicial challenges as it relates to the implementation of Measure 8. Continues.

280 CHAIR BRYANT: Gives his understanding of SB 1134.

SEN. SPRINGER: Correct.

CHAIR BRYANT: Only issues relating to Measure 8?

SEN. SPRINGER: Correct.

289 MAX WILLIAMS: Refers to letter received from Gregory A. Chaimov, Attorney-in-Charge, Special Litigation Unit, Department of Justice, supporting SB 1123. [EXHIBIT C]

305 CHAIR BRYANT: Would save at least a year on the appellate level. Have we heard anything from the Supreme Court?

314 MAX WILLIAMS: Have heard nothing from the Supreme Court.

325 CLOSES PUBLIC HEARING ON SB 1143

OPENS WORK SESSION ON SB 1143

334 SEN. STULL: What happens in the event it doesn't get its hearing there?

CHAIR BRYANT: We can direct to the Supreme Court. Continues.

344 SEN. STULL: Will support this bill in Committee. Reserves right to change vote on floor. States for the record some of her concerns.

- Very narrow focused
- Not equal playing field

370 CHAIR BRYANT: Would have a problem expediting Measure 16. Explains.

334 MOTION: SEN. SPRINGER: Moves SB 1143 be sent to the floor with a DO recommendation. PASS

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All are present. SEN. MILLER IS EXCUSED. mem

SEN. SPRINGER will lead discussion on the Floor.

395 RECESS UNTIL 4:30

OPENS PUBLIC HEARING ON HB 2335

Witnesses: Bob Olson, Oregon State Bar, Procedure & Practices
Harrison Latto, Oregon State Bar, Procedure & Practices

401 BOB OLSON, Oregon State Bar, Procedure & Practice Committee: Testifies in opposition to SB 2335. Introduces Harrison Latto.

420 HARRISON LATTO, Assistant Attorney General, Department of Justice Appellate Division; Oregon State Bar, Procedure & Practice Committee: Testifies in opposition to SB 2335. [EXHIBIT D]

TAPE 126, SIDE B

039 LATTO: Wouldn't be gaining much in dispensing with the Notary requirement. Continues.

044 SEN. HAMBY: Refers bill's wording that any "statute" that requires notarization.

LATTO: Yes it does. That was our second concern. Explains.

050 CHAIR BRYANT: I think what Rep. Parks was trying to do was accommodate

people who live in rural areas and don't have access to notaries.
Continues.

057 SEN. BAKER: Most banks have notaries.

067 SEN. SORENSON: If you deleted the phrase, "by statute or" -- wouldn't that allow other persons to file papers in a court proceeding to dispense with the notary public?

079 LATTO: Yes, that would satisfy the committee's concerns. Continues.

085 SEN. SORENSON/LATTO: Discussion.

122 CLOSES PUBLIC HEARING ON SB 2335

OPENS PUBLIC HEARING ON HB 2572

137 Witnesses: Paul Snider, Legal Counsel, Association of Oregon Counties
John Gervais, Justice of Peace Association of The State of Oregon

147 PAUL SNIDER, Legal Counsel, Association of Oregon Counties: Testifies in support of HB 2572 and offers proposed amendments. [EXHIBIT K]

177 "I am here before you with the proposed amendments to clarify the application of HB 2572 to the two purposes for which it was intended to apply." Continues.

187 JOHN GERVAIS, Justice of Peace Association of the State of Oregon: Concurs with the amendment proposed by Mr. Snider.

191 SEN. SORENSON: Speaks of Justice Courts in Lane County. Would the revenue generated by local jurisdictions be budgeted into the state court budget? Would there be any change in the allocation of money generated to the justice courts?

SNIDER: If our amendments are adopted, the answer would be no. Continues.

208 SEN. SORENSON/SNIDER/GERVAIS: Discussion.

246 SEN. SORENSON: Would you favor or oppose an amendment that would require appointment of a licensed lawyer to preside in a justice court?

GERVAIS: If I'm understanding your question correctly. Continues.

SEN. SORENSON/GERVAIS/SNIDER: Discussion

CLOSES PUBLIC HEARING ON SB 2572
OPENS WORK SESSION ON SB 2572

MOTION: SEN. HAMBY: Moves to ADOPT the Association of Oregon Counties Proposed Amendments to A-Engrossed House Bill 2572 subject to review by legislative counsel.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. A
members are present. SENATORS MILLER, BAKER and SPRINGER ARE EXCUSED.

MOTION: SEN. HAMBY: Moves SB 2572 be sent to the floor with a DO PASS AS AMENDED recommendation.

307 SEN. SORENSON: Speaks to the propriety of his amendments about the recording and the qualifications.

CHAIR BRYANT: Chair would oppose those for two reasons:
- Want to give the justices of the peace and others a chance to come forward
- Localities should be able to set own determination as far as requirements in education.

311 SEN. SORENSON: Favors bill because it clarifies the authority of the supreme court to exercise this supervision over the educational aspects of the justice court.
Continues.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members
are present. SENATORS MILLER, BAKER and SPRINGER ARE EXCUSED.

SEN. STULL will lead discussion on the Floor.

326 OPENS WORK SESSION ON SB 1142

329 LANKTON: Mr. Grant and I have reached an accord on some suggested amendments that would satisfy his objection to the proposed bill. [EXHIBIT

L[
- One or two minor changes to that.

342 CHAIR BRYANT: This would become a new Section 2 sub-paragraph 3?

LANKTON: Actually would be better if these paragraphs were numbered 4, 5 &

6.

350 CHAIR BRYANT: They all follow under Section 2?

LANKTON: Correct.

CHAIR BRYANT: Reviews amendments. Sub-paragraph 4 -

372 LANKTON: In 6 it should actually read "in withholding consent" rather than "consenting."

384 CHAIR BRYANT: Mr. Grant, that's agreeable with you?

GRANT: Yes.

4/24/95. MOTION: SEN. BRYANT: Moves to ADOPT SB 1142-1 amendments dated

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

ADO

MOTION: CHAIR BRYANT: Moves to ADOPT the Hand-written amendments submitted by Mr. Lankton and Mr. Grant to SB 1142 subject to review by legislative counsel.

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

MOTION: SEN. BRYANT: Moves SB 1142 be sent to the floor with a DO PASS AS AMENDED recommendation.

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

SEN. MILLER will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 1142

Meeting adjourns 5:00 p.m.

Submitted by:

Reviewed by:

Julie Clemente
Committee Assistant

M. Max Williams II
Committee Administrator/Counsel

EXHIBIT LOG:

A - Hand-engrossed Amendments SB 276 -- Bob Shoemaker -- 7 pages
B - Proposed Amendments SB 1060 -- Staff -- 1 page
C - Testimony SB 1143 -- Gregory Chaimov -- 2 pages
D - Testimony HB 2335 -- Harrison Latto -- 2 pages
E - Information SB 1146 -- Sen. Dick Springer -- 6 pages
F - Information SB 1146 -- Sen. Dick Springer -- 11 pages
G -- Testimony SB 1060 -- Dana W. Jenkins -- 1 page
H - Testimony SB 1142 -- Milton Lankton -- 7 pages
I - Proposed Amendments SB 1142 -- Staff -- 1 page
J - Testimony SB 1142 -- Eugene Grant -- 1 page
K - Testimony HB 2572 -- Paul Snider -- 2 pages
L - Proposed Amendments SB 1142 -- Milton Lankton -- 1 page