

HOUSE COMMITTEE ON JUDICIARY, SUBCOMMITTEE ON CIVIL LAW

March 17, 1993 Hearing Room 357 1:00 p.m. Tapes 47 - 49

MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Tom Mason Rep. Ken Baker
Rep. Jim Edmunson

VISITING MEMBER Sen. Mae Yih, District 19 Rep. Tim Josi, District 2
Rep. Liz VanLeeuwen, District 37

STAFF PRESENT: Katy Yetter, Committee Clerk Carole Souvenir,
Legislative Counsel

MEASURES CONSIDERED: HB 2360 - Related to Oregon Rules of Civil
Procedure HB 2542 - Abolishes justice court

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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. [--- Unable To Translate
Graphic ---]

TAPE 47, SIDE A

003 CHAIR BRIAN calls the meeting to order at 1:12 p.m.

PUBLIC HEARING ON HB 2542

WITNESSES: William Warther, Oregon Pro Civil Rights Lobby Candace
Hissong, Oregon Justice of the Peace Association Larry D. Cole, Baker
County Justice Court S. Chris Nix, Gilliam County Justice Court Richard
Triska, Lebanon-Sweet Home Justice Court Gloria McGinnis, Canyonville
Justice Court C.W. Smith, Jackson County Sheriff Paul Snider,
Association of Oregon Counties (AOC)

024 SEN. MAE YIH, DISTRICT 19: Testifies against HB 2542 (EXHIBIT
B).

040 REP. LIZ VANLEEUVEN, DISTRICT 37: Testifies on HB 2542.

053 JUDGE RICHARD TRISKA, LINN COUNTY: Presents testimony on HB
254 2 (EXHIBIT A).

198 REP. EDMUNSON: Addresses issue of testing for attorneys.
-Attorneys with membership in the Bar most likely will not need the test
as indicated in the bill. 240 VANLEEUVEN: States that a part-time
judge may not be helpful to the smaller areas in the Willamette
Valley.

290 LARRY COLE, BAKER COUNTY JUSTICE COURT: Presents testimony on HB
254 2.

039 WILLIAM WARTHER, OREGON PRO GUN CIVIL RIGHTS LOBBY: Presents

testimony on HB 2542 (EXHIBIT C).

074 S. CHRIS NIX, GILLIAM COUNTY JUSTICE COURT: Presents testimony on HB 2542 (EXHIBIT D).

130 CANDACE HISSONG, OREGON JUSTICE OF THE PEACE ASSOCIATION: Presents testimony on HB 2542 (EXHIBIT E).

150 GLORIA MCGINNIS, CANYONVILLE JUSTICE COURT: Presents testimony on HB 2542 (EXHIBIT F).

260 PAUL SNIDER, AOC: Testifies against HB 2542.

311 C.W. SMITH, JACKSON COUNTY SHERIFF: Testifies against HB 2542.

TAPE 47 SIDE B

071 REP. TIM JOSI, DISTRICT 2: Presents testimony (EXHIBIT G).

120 BILL SARGENT, TILLAMOOK COUNTY BAR ASSOCIATION: Testifies against HB 2542.

261 CHAIR BRIAN: Asks Sargent how many cases his court handles per year.

265 SARGENT: In 1991, there were approximately 6227 cases. -50% as a rough estimate were traffic violations.

368 JACK ROBERTS, LANE COUNTY: Testifies against HB 2542.

TAPE 48, SIDE B

PUBLIC HEARING ON HB 2360

WITNESSES: Laird Kirkpatrick, Professor of law at the University of Oregon Larry Tharp, Council on Court Procedures Maury Holland, Council on Court Procedures

145 LAIRD KIRKPATRICK, UNIVERSITY OF OREGON: Testifies on HB 2360 (EXHIBIT H).

344 MAURY HOLLAND, COUNCIL ON COURT PROCEDURES: Comments on action of committee. -Benefits are not usually instantaneous and legislative work takes time.

370 REP. BAKER: States that rule-making is no longer an ability of the committee.

TAPE 49, SIDE A

027 LARRY THARP, COUNCIL ON COURT PROCEDURES: Testifies against HB 2360 (EXHIBIT I).

WORK SESSION ON HB 2542

Witness: Ross Spencer, Oregon State Sheriffs Association

133 CAROLE SOUVENIR, COMMITTEE COUNSEL: Reviews amendments -1, -2, -3, -4 and -5. -1: Deletes Lines 17 through 30 and Pages 2, 3, and 4. -Abolishes all justice of the peace courts within 15 miles of a district court.

152 REP. EDMUNSON: Asks counsel for a provision for conformance.

158 CAROLE SOUVENIR, COMMITTEE COUNSEL: States that Section 2 of HB 254 2 does cause the judicial department to prepare and introduce legislation dealing with conformance. -2: Allows for Chief Justice to have administrative authority over the

justice of the peace and allows the court to suspend the justice if he

or she is a lawyer who has been suspended from practicing law. -3: Allows for the supreme court to create a competency test for the

justice of the peace, he or she must either take the test or admitted to practice law. This goes into effect January 1, 1996 for people who are

elected or re-elected after this date.

228 CHAIR BRIAN: Asks committee about a non-lawyer who seeks the position of justice. -How many times can they take the test?

238 REP. BAKER: Responds by stating the old requirements for an individual taking the Bar exam were three times within five years. However, now

this requirement is extinct.

250 CHAIR BRIAN: States the testing requirements for a police officer in order to give the committee an idea of the various requisites in other

occupations.

280 ROSS SPENCER, OREGON STATE SHERIFFS ASSOCIATION: States that sheriffs must meet numerous requirements, including passing a background check

and training course. -An ex-police officer must be certifiable under the conditions of a

sheriff.

290 CAROLE SOUVENIR, COMMITTEE COUNSEL: -4: Require justice of the peace to accept and try all cases under criminal jurisdiction and does not

allow them to refuse a case under the indigent defense. -Also does not allow an officer to not issue a citation due to the fact that it would be heard in a justice court. -5: Require the justice court to be full-service.

300 CHAIR BRIAN: Asks committee about an individual who is being tried for both a felony and a misdemeanor.

370 CANDACE HISSONG, OREGON JUSTICE OF THE PEACE ASSOCIATION: Replies

that under the double jeopardy rule, they must be kept together and sent to

the circuit court. -Indicates that provisions must be made for felony arraignments to be

kept in one kind of court across the state of Oregon.

TAPE 49, SIDE B

062 REP. EDMUNSON: Suggests in Sections 4 through 15 should be retained from the original bill and have district courts added to the

jurisdiction that is not covered by justice courts; remove Section 3 of the -1 amendments, and retain Section 16. -Delete "through 4" from Line 17 of the -1 amendments and add, "lines

one to 28 on" after the word "delete" and before "pages." -Amends Section 2 Line 17 on Page 1 that conforms to the language in the aforementioned conceptual amendments.

115 MOTION: REP. EDMUNSON: Moves to AMEND the -1 amendments dated 3-15-93 with the above conceptual amendments.

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

129 MOTION: REP. EDMUNSON: Moves to ADOPT the -1 amendments AS AMENDED.

130 VOTE: CHAIR BRIAN: Objects to the adoption, but will address concerns later with counsel. The motion CARRIES. All

members are present.

146 MOTION: REP. EDMUNSON: Moves to AMEND the -2 amendments by changing language on Page 3, deleting Line 11 and inserting "JANUARY 1, 1994" into the blank space on Line 10.

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

158 MOTION: REP. EDMUNSON: Moves to ADOPT the -2 amendments AS AMENDED.

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

170 MOTION: REP. EDMUNSON: Moves to AMEND -3 amendments dated 3-15-93 on Line 10 Page 2 by adding "elected or appointed" and

removing any language that is inconsistent with previous conceptual amendments.

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

200 MOTION: REP. EDMUNSON: Moves to ADOPT -3 amendments AS

AMENDED.

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

220 MOTION: REP. EDMUNSON: Moves to AMEND the -5 amendments dated 3-15-93 by adding conceptual language allowing the transferral of charges to the circuit court to avoid the double jeopardy rule involving felonies and misdemeanors. The justice court will only hear cases that involve misdemeanors. In addition, Line 11 will be deleted.

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

240 MOTION: REP. EDMUNSON: Moves to ADOPT the -5 amendments AS AMENDED.

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

250 MOTION: REP. EDMUNSON: Moves to AMEND the -4 amendments dated 3-15-93 by deleting from Lines 13 through 16 the language, "in issuing...appear."

255 VOTE: CHAIR BRIAN: Objects to the motion, but hearing no other objections, allows the motion to CARRY. All members are present.

300 MOTION: REP. EDMUNSON: Moves to send HB 2542 AS AMENDED to the Full committee with a DO PASS recommendation.

310 VOTE: In a roll call vote, all members are present and vote AYE.

315 CHAIR BRIAN: The motion CARRIES.

318 CHAIR BRIAN: Adjourns the meeting at 3:45 p.m.

Submitted by:

Reviewed by:

Katy Yetter
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2542 - R. Triska - 3 pages B - Testimony on HB

2542 - Sen. Mae Yih - 1 page C - Testimony on HB 2542 - W. Warther - 1
page D - Testimony on HB 2542 - C. Nix - 1 page E - Testimony on HB
2542 - C. Hissong - 3 pages F - Testimony on HB 2542 - G. McGinnis - 1
page G - Testimony on HB 2542 - Rep. Tim Josi - 1 page H - Testimony
on HB 2360 - L. Kirkpatrick - 3 pages I - Testimony on HB 2360 - L.
Tharp - 7 page J - Amendments to HB 2542 - Legislative Counsel - 8
pages