

HOUSE COMMITTEE ON JUDICIARY SUB-COMMITTEE ON CRIME AND CORRECTIONS

May 4, 1993 Hearing Room 257 3:00 p.m. Tapes 94 - 95
MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter
Courtney Rep. Veral Tarno STAFF PRESENT: Holly Robinson, Committee
Counsel Bryan Boehringer, Committee Clerk MEASURES CONSIDERED: HB
2033 - Relating to unclaimed property. HB 208S - Relating to indigent
defense. HB 2246 - Relating to crime. HB 2248 - Relating to tort claims.
HB 3427 - Relating to alternative dispute resolution.

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 94, SIDE A

005 CHAIR TIERNAN: Calls meeting to order at 3:08 p.m.

PUBLIC HEARING ON HB 2246 Witnesses: Ted Kulongowski, Oregon Attorney
General Pete Shepherd, Department of Justice

012 TED KULONGOWSKI, OREGON ATTORNEY GENERAL: Testifies in favor of ~
2246. The bill authorizes the Attorney General to issue subpoenas in
criminal investigations conducted by the Department of Justice. Gives
examples of subpoena power. The bill is limited to criminal
investigations.

053 PETE SHEPHERD, DEPARTMENT OF JUSTICE: Testifies in favor of HB
2246.

056 CHAIR TIERNAN: Why did it fail in the past? Is there anyone that is
going to oppose this bill?

059 KULONGOWSKI: Doesn't know why it has failed in the past. Discusses
the perception that the Department of Justice is getting more involved
in criminal matters.

070 SHEPHERD: Discusses the improvements in the bill, compared to the
last one that failed in the Senate. House Committee on Judiciary, Crime
and Corrections Sub-Committee May 4, 1993 - Page 2

075 REP. TARNO: Asks about oppressive and reasonable.

077 SHEPHERD: Discusses enhanced protections to individuals.

098 REP. TARNO: Asks about witness fees.

099 SHEPHERD: Discusses payment of statutory fees.

PUBLIC HEARING ON HB 2085 Witnesses: Bill Linden, Judicial Department
Frank Brawner, Oregon Banker's Association

110 BILL LINDEN, JUDICIAL DEPARTMENT: Submits and reviews testimony in
favor of HB 2085. (EXHIBIT A) The bill requires that financial
institutions provide the State Court Administrator with account
information for a 30 day period.

141 CHAIR TIERNAN: Asks about the 30 day period.

142 LINDEN: The time period begins the day that the Judicial Department requests the information.

150 CHAIR TIERNAN: Asks about the length of the time period.

151 LINDEN: It could be more than 30 days, if we are getting the last two account statements. 156 FRANK BRAWNER, OREGON BANKER'S ASSOCIATION: Explains the providing of the statement. 166 CHAIR TIERNAN: Is 30 days enough to discover any type of hidden assets? 167 LINDEN: The time period should be sufficient. 171 REP. BROWN: Asks how often the accounts are checked. 174 LINDEN: Discusses the investigations on a county by county level. 189 CHAIR TIERNAN: Are credit unions financial institutions? 190 LINDEN: Yes they are. Discusses the credit unions opinion of the bill. 195 REP. TARNO: Asks about the time period for the accused to go to trial. Is thirty days long enough? How difficult would it be for the financial institutions to provide more statements? 209 BRAWNER: There is no difficulty at all.

220 LINDEN: Discusses the time period. House Committee on Judiciary, Crime and Corrections Sub-Committee May 4, 1993 - Page 3

226 CHAIR TIERNAN: How does this relate to individuals in prison that might already have hidden assets?

233 LINDEN: It wouldn't relate. Discusses the example.

WORK SESSION ON HB 2085

257 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses the -1 amendments.

264 MOTION: REP. TARNO: Moves to ADOPT the HB 2085-1 amendments.

VOTE: CHAIR TIERNAN: Hearing no objection, the amendments are ADOPTED. All members are present.

268 MOTION: REP. TARNO: Moves B 208S, AS AMENDED, to the full committee with a DO PASS recommendation. VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: None

PUBLIC HEARING ON HB 2033 Witnesses: Rep. Van Leeuwan, District 37 Craig Jackson, Intern for Rep. Van Leeuwan Joe Gilliam, National Federation of Independent Business Marcella Easley, Division of State Lands Steve Sanders, Department of Justice Darren Bond, Director of Cash Management, State Treasury Gary VanHorn, Assistant Director of State Lands Scott Ashcom, Ted Hughes and Associates Steve Rodeman, Oregon Credit Union League Phil Goldsmith Frank Brawner, Oregon Banker's Association

293 REP. VAN LEEUWAN, DISTRICT 37: Testifies on HB 2033. 313REP. COURTNEY: Are you in opposition of the bill?

314 REP. VAN LEEUWAN: Discusses concerns with the bill.

323 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill changes procedures and processes related to the reporting and remitting of unclaimed assets. 363 CRAIG JACKSON, INTERN, REP. VAN LEEUWAN: Submits and reviews testimony on HB 2033. (EXHIBIT B) 403 REP. TARNO: Asks about some of the concerns regarding the time period. House Committee on Judiciary, Crime and Corrections Sub-Committee May 4, 1993 - Page 4

413 JACKSON: Section 3 is the problem.

420 REP. VAN LEEUWAN: Discusses preference for the five year time period.

440 JOE GILLIAM, NATIONAL FEDERATION OF INDEPENDENT BUSINESS: Testifies against HB 2033. Discusses record keeping for gift certificates.

TAPE 94, SIDE B

026 REP. TARNO: Discusses ex-emptions of gift certificates.

031 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses uncashed certificates that are no longer reportable. 038 MARCELLA EASLY, DIVISION OF STATE LANDS: Testifies in favor of HB 2033. 044 STEVE SANDERS, DEPARTMENT OF JUSTICE: Testifies in favor of HB 2033. Clarifies issues of the bill. The abandoned property does not apply to land only to personal intangible property. 073 CHAIR TIERNAN: Asks about a statute of limitations in the bill. 082 EASLY: Testifies in favor of the bill. Explains the process of confiscation. Discusses the types of property that are often forfeited. Explains the Department of Lands responsibility for unclaimed property. Discusses the process of locating owners of unclaimed property. Discusses compliance. 234 CHAIR TIERNAN: Asks about the amendments to the bill. Asks about the amount of money in the Common School Fund. 236 EASLY: Explains that there is around \$30 million in the common school fund from unclaimed property. 240 CHAIR TIERNAN: Asks how often the confiscated items are claimed. Asks about the average time period that elapses before items are claimed. 247 EASLY: Discusses problems with the time limits. Discusses the claim process. Discusses costs involved in the confiscation of safety deposit boxes. 303 CHAIR TIERNAN: Asks about the limitations of years in relation to the disbursement of money. 305 SANDERS: Discusses the two different time periods that the property is held through.

325 REP. TARNO: Asks about section three. Discusses the two year time period.

342 EASLY: Discusses the amount of notification. Discusses the care taken in tracking down owners.

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361 SANDERS: Explains that the individuals never lose the right to claim their assets. 393 DARREN BOND, DIRECTOR OF CASH MANAGEMENT, STATE TREASURY: Submits and reviews testimony in support of the bill. (EXHIBIT C) 417 CHAIR TIERNAN: Asks about the types of checks confiscated. Asks about the amount of uncashed checks confiscated. 418 BOND: Explains the types of checks. There are thousands of items. Explains where the funds are returned to. The money doesn't currently go to children's fund. Discusses the records kept. 469 CHAIR TIERNAN: Asks about the common school fund.

470 BOND: Explains the common school fund as an endowment fund for dedicated purposes.

480 GARY VAN HORN, ASSISTANT DIRECTOR OF STATE LANDS: Discusses the

amount in the common school fund. There is currently around \$250 million dollars in the common school fund. The interest on the fund is distributed to the schools by the counties. The interest is around \$25 million dollars.

TAPE 96, SIDE A

001 VAN HORN: Continues with testimony. 012 SCOTT ASHCOM, TED HUGHES AND ASSOCIATES: Introduces Steve Rodeman. Explains that his group would like to be involved in any type of amendment work group.

021 STEVE RODEMAN, OREGON CREDIT UNION LEAGUE: Submits and reviews written testimony in favor of HB 2033. (EXHIBIT D) Submits possible amendments to the bill. (EXHIBIT E) 079 PHIL GOLDSMITH: Submits and reviews written testimony in favor of HB 203 3. (EXHIBIT E) This will broaden the term of unclaimed property. 161 CHAIR TIERNAN: Asks if there is anyone in opposition of the new section 24. 163GOLDSMITH: Explains that he is not aware of any opposition. Explains the history behind section 24. 177 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Testifies on the bill. - Suggests some amendments. This law will be a model to other states. Discusses dormant accounts. 284 CHAIR TIERNAN: Discusses the need for a possible dollar limitation on gift certificates.

PUBLIC HEARING ON HB 2248 Witnesses: Dave White, Department of General Services House Committee on Judiciary, Crime and Corrections SubCommittee May 4, 199 3 - Page C

Lynn Rosik, Department of Justice Heidi Stutzman, City of Salem Bill Blair, City of Salem Charles Williamson, Oregon Trial Lawyers Association

326 DAVE WHITE, DEPARTMENT OF GENERAL SERVICES: Submits and reviews testimony in favor of HB 2248. (EXHIBIT G) Explains the claim process. Explains the duties of the General Service Department. 498 CHAIR TIERNAN: Asks about the types of torts that the division handles.

TAPE 95, SIDE B

001 WHITE: Continues with testimony. Explains the type of torts that fall under the jurisdiction of the department. 023 LYNN ROSIK, DEPARTMENT OF JUSTICE: Submits and reviews testimony in favor of HB 2248. (EXHIBIT H) 027 HEIDI STUTZMAN, CITY OF SALEM: Testifies in favor of HB 2248. Explains that the League of Oregon Cities is also in support of this bill. 034 BILL BLAIR, CITY OF SALEM: Submits and reviews testimony in favor of HB 224 8. (EXHIBIT 1) Discusses possible amendments. Discusses the claims process, and types of claims. 125 CHARLES WILLIAMSON, OREGON TRIAL LAWYER'S ASSOCIATION: Submits and reviews written testimony in opposition to HB 2248. (EXHIBIT J) Discusses limitations of the state's liability. 176 REP. TIERNAN: Asks who needs to send notification to the state in individual claimant cases. What is adequate notice? 184 WILLIAMSON: Explains that anyone can file the claim, and that there are no differences in the time frames. 186 REP. TARNO: Asks about intent to claim. 188 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses options of serving notice. 195 CHAIR TIERNAN: Discusses the issue of burden of notification.

209 REP. BROWN: Discusses the rationale behind creating a centralized base for claims to be filed.

212 WILLIAMSON: Discusses potential claim loss.

223 REP. BROWN: Why is the State's cutoff at six months instead of two years? - - These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks repon a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. - House Committee on Judiciary, Crime and Corrections Sub-Committee May 4,1993 - Page 7

224 WILLIAMSON: Suspects that the State wanted the ability to investigate fresh claims.

PUBLIC HEARING ON HB 3427 Witness: Dick Briggs . 254 DICK BRIGGS: Submits and reviews written testimony in favor of HB 3427. (EXHIBIT K) Suggests possible amendments. (EXHIBIT L) The bill encourages administrative agencies to use alternative means of dispute resolution in a rulemaking proceeding, contested case proceeding, civil action, or other decision-making process. 338 CHAIR TIERNAN: Asks about both parties agreeing to dispute resolution

340 BRIGGS: Continues with testimony. Discusses the possibilities when using dispute resolution.

367 CHAIR TIERNAN: Asks if dispute resolution could be used in land use appeals.

369 BRIGGS: Explains that it could be used in those instances.

388 REP. BROWN: Asks if there is anyone opposed to this legislation.

390 BRIGGS: Explains that were some groups that were concerned with the initial language of the bill. Explains the changes that were made.

482 CHAIR TIERNAN: Adjourns the meeting at 5:10 p.m.

Submitted by: Reviewed by:

Bryan Boehringer Anne May Committee Clerk Committee Coordinator

EXHIBIT LOG:

A - Testimony on HB 2085 - William Linden - 2 pages B - Testimony on HB 2033 - Craig Jackson - 2 pages C - Testimony on HB 2033 - Darren Bond - 1 page D - Testimony on HB 2033 - Steven Rodeman - 1 page E - Amendments to HB 2033 - Steven Rodeman - 3 pages F - Testimony on HB 2033 - Phil Goldsmith - 3 pages G - Testimony on HB 2248 - C.D. White - 2 pages H - Testimony on HB 2248 - Lynn Rosik - 3 pages I - Testimony on HB 2248 - William Blair - 3 pages J - Testimony on HB 2248 - Charlie Williamson - 3 pages K - Testimony on HB 3427 - Dick Briggs - 3 pages

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Amendments to HB 2248 - Justice Department - 1 page - 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.