

HOUSE COMMITTEE ON JUDICIARY

June 29, 1993 Hearing Room 357 1:30 p.m. Tapes 74 - 76

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Tom Mason, Vice-Chair Rep. Ken Baker Rep. Tom Brian Rep. Kate Brown Rep. Peter Courtney Rep. Jim Edmunson Rep. Veral Tarno Rep. Bob Tiernan

STAFF PRESENT: Holly Robinson, Committee Counsel Carole Souvenir, Committee Counsel Julie Nolta, Committee Clerk

MEASURES CONSIDERED: SB 308 - Relating to arbitration SB 462 - Relating to secured transactions SB 724 - Relating to telephone testimony SB 1002 - Relating to commercial transactions SB 617 - Relating to mass transit districts SB 1092 - Relating to juvenile records

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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 74, SIDE A

006 CHAIR BRIAN: Calls the meeting to order at 2:05 p.m.

SB 617 - PUBLIC HEARING

Witnesses: Jesse Vander Zanden, Tri-Met Jody Fischer, Tri-Met

015 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 617 clarifies that mass transit districts may offer to pay rewards for information leading to the arrest and conviction of any person committing acts of violence or vandalism on district property. Explains the -2 amendments. (EXHIBIT A)

025 JESSE VANDER ZANDEN, TRI-MET: Testifies in favor of SB 617. Explains amendments.

032 JODY FISCHER, TRI-MET: Has no additional testimony.

SB 617 - WORK SESSION

039 MOTION: REP. EDMUNSON: Moves to ADOPT SB 617-2 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Representatives Courtney, Mason and Parks are excused.

042 MOTION: REP. EDMUNSON: Moves SB 617 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brian, Brown, Edmunson, Mason, Tarno, Tiernan NO: None EXCUSED: Courtney, Parks

Rep. Brown to carry the bill.

SB 724 - PUBLIC HEARING

Witnesses: Sarah Castner, Dept. of Justice Rep. Kate Brown, District 13

067 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 724 allows testimony by telephone of parties and witnesses in non-jury civil proceedings,

juvenile dependency proceedings or termination of parental rights proceedings upon a showing of good cause.

075 SARAH CASTNER, DEPT OF JUSTICE: Submits and reviews written testimony in favor of SB 724. (EXHIBIT B)

08 REP. BRIAN: How do we know who is on the other end of the phone?

CASTNER: Defendant or witness is sworn in by the court.

101 REP. EDMUNSON: Asks about court's jurisdiction over someone in another state or country.

CASTNER: Court in the other state would have to move a civil process to take action. REP. EDMUNSON: Asks about controlling a witness. Are these non-jury

cases?

CASTNER: Yes.

122 REP. MASON: Court may be resistant to this change. Discusses money saving possibilities of the bill. Asks about the bar's opinion on

moving this to jury trials.

CASTNER: Can't answer for the bar. Discusses Senate action on SB 724 .

151 REP. TARNO: Asks about cost estimate on potential savings.

CASTNER: Doesn't know.

163 REP. BAKER: Gives an example of a long distance phone witness. Supports the bill.

177 REP. KATE BROWN, DISTRICT 13: Submits and reviews written testimony in favor of SB 724 on behalf of Mark Kramer. (EXHIBIT C)

199 CARL MYERS, OREGON STATE BAR: Testifies in favor of SB 724.

213 REP. MASON: Why do we need 30 days notice?

MYERS: Explains why 30 days may be necessary.

231 REP. BRIAN: Asks about language referring to "shall" or "may."

MYERS: There was concern that "shall" made it mandatory. Proposed change to "may." Senate had the same concern.

250 REP. EDMUNSON: Doesn't this make the court's decision nonappealable? Discusses effects of the amendment.

MYERS: That argument carries some weight. Continues testimony.

281 REP. MASON: Bill also references alternative procedures or technologies.

REP. BROWN: Refers to p. 2, lines 21-23.

MYERS: Practitioners are aware of development in technologies and are willing to use appropriate methods.

299 REP. MASON: Asks about logistics concerning the witness.

MYERS: Assumes it will not be a reluctant witness.

REP. MASON: Asks about swearing in of the witness.

MYERS: Discusses current practice regarding swearing in. 336 REP. BROWN: Agrees with Mr. Myers, explanation.

SB 724 - WORK SESSION

359 MOTION: REP. BROWN: Moves SB 724 TO THE FLOOR with a DO PASS recommendation.

REP. TARNO: Asks about changing "shall" to "may."

REP. BROWN: Sees no problem with that.

366 REP. TARNO: Should we make a conceptual amendment?

REP. BROWN: Legislative Counsel felt it was discretionary to the court.

376 REP. BRIAN: Asks if Rep. Edmunson wanted to keep in "shall."

CAROLE SOUVENIR, COMMITTEE COUNSEL: Yes.

REP. BROWN: Would concur.

REP. TARNO: Can agree to that.

386 VOTE: 5-0 MOTION PASSES AYE: Baker, Brian, Brown, Mason,
Tarno NO: None EXCUSED: Courtney, Edmunson, Tiernan, Parks

Rep. Mason to carry the bill.

SB 1002 - PUBLIC HEARING

(SB 1002 follows the amendments to Article 3 and 4 to the Uniform Commercial Code by the permanent editorial board.)

Witnesses: Ken Sherman, Oregon Bankers Association Mary Chaffin, Oregon Bankers Association Gary Lindberg, Oregon Bankers Association Steve Rodeman, Oregon Credit Union League Dave Barrows, Oregon League of Financial Institutions Steve Little, Dept. of Revenue Jerome Elliott, Oregon Financial Services Association Keith Burns, Oregon Financial Services Association Frank Brawner, Oregon Bankers Association

428 KEN SHERMAN, COUNSEL, OREGON BANKERS ASSOCIATION: Testifies in favor of SB 1002. (EXHIBIT E & F)

TAPE 75, SIDE A

054 MARY CHAFFIN, OREGON BANKERS ASSOCIATION: Submits and reviews written testimony in favor SB 1002. (EXHIBIT G)

220 GARY LINDBERG, FIRST INTERSTATE BANK OF OREGON; OREGON BANKERS ASSOCIATION: Submits and reviews written testimony in favor of SB 100 2. (EXHIBIT H)

329 SHERMAN: Continues testimony.

TAPE 74, SIDE B

045 REP. TIERNAN: Asks about the opponent's position.

SHERMAN: Discusses and supports current uniformity provision.

076 STEVE RODEMAN, STAFF ATTORNEY, OREGON CREDIT UNION LEAGUE: Testifies and submits written testimony in support of SB 1002. (EXHIBIT I)

122 REP. BROWN: What happens now that Oregon has not adopted this, if this situation occurs?

RODEMAN: Decision would be whether Oregon or New York law would apply and consumer would have to act accordingly.

135 DAVE BARROWS, OREGON LEAGUE OF FINANCIAL INSTITUTIONS: Testifies in support of SB 1002.

144 REP. TIERNAN: Only argument in terms of acceptance is Section 40?

RODEMAN: That is where the contention lies.

REP. TIERNAN: Oregon has modified common law?

RODEMAN: Correct.

REP. TIERNAN: Would have no real effect on the cashing of the check?

RODEMAN: Statute determines what happens depending on who the creditor is.

157 REP. TIERNAN: Discusses example of accord and satisfaction.

RODEMAN: Further explains accord and satisfaction.

175 STEVE LITTLE, DEPARTMENT OF REVENUE: Testifies TO SB 1002. Proposes amendment. (EXHIBIT J) 224 JEROME ELLIOTT, OREGON FINANCIAL SERVICES ASSOCIATION: Testifies and submits written testimony and amendments to SB 1002. (EXHIBIT K)

285 KEITH BURNS, OREGON FINANCIAL SERVICES ASSOCIATION: Testifies in opposition to part of SB 1002.

442 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Submits and reviews written testimony in support of SB 1002. (EXHIBIT L)

TAPE 75, SIDE B

PUBLIC HEARING ON SB 1092

Witnesses: Lee Erickson, Oregon Law Enforcement Mark Caillier, Oregon Peace Officers Association Fred Avera, Oregon District Attorneys Association

475 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1092 provides that fingerprints and photographs of juvenile offenders convicted of the equivalent of an adult felony or Class A misdemeanor may be kept in a central repository and provides for the expunction of these records.

036 LEE ERICKSON, OREGON LAW ENFORCEMENT LEGISLATIVE COMMITTEE: Testifies in support of SB 1092.

054 MARK CAILLIER, SALEM POLICE DEPT.; OREGON PEACE OFFICERS ASSOCIATION:

Testifies in support of SB 1092.

058 FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies to SB 1092. 133 REP. MASON: What is missing on the list?

AVERA: Burglary and Unauthorized Use of a Motor Vehicle (UUMV). Asks what percentage of auto thefts are committed by juveniles.

CAILLIER: 40% are juveniles, and about 35% of the burglars are juveniles.

AVERA: Drug crimes are also missing from the list.

148 REP. TARNO: Your suggestion is to delete Section 3. Is there a consensus in the law enforcement community in taking that out?

CAILLIER: Explains why automatic record expungement is not good public policy.

162 REP. TARNO: Asks about language regarding expungement. AVERA: That is vital even if Section 3 stays.

182 JACKIE BLOOM, CITY OF PORTLAND: Testifies in support of SB 1092.

201 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT: Testifies and submits written testimony to SB 1092. (EXHIBIT N)

341 REP. TARNO: Asks about language in Section 3, p. 5 of the bill. What if we put language back in?

TRAVIS: Explains he doesn't have a problem with them being able to ask for expungement. Wants juvenile court to automatically expunge records going into adult system.

REP. TARNO: Asks why he has a problem with the five year expunction? Gives example.

383 LARRY OGLESBY, DIRECTOR, MARION COUNTY JUVENILE DEPARTMENT: Testifies in opposition to SB 1092. (EXHIBIT O)

SB 308 - PUBLIC HEARING

Witnesses: William Wiswall, Lawyer Gretchen Buehner, Lawyer Charles Williamson, Oregon Trial Lawyers

464 WILLIAM WISWALL, LAWYER: Testifies and submits written testimony in support of SB 308. (EXHIBIT)

TAPE 76, SIDE A

064 GRETCHEN BUEHNER, LAWYER: Testifies in support of SB 308.

096 CHARLES WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Testifies in support of SB 308.

123 REP. TIERNAN: Asks if the committee already passed an arbitration dispute resolution bill.

CAROLE SOUVENIR, COMMITTEE COUNSEL: Nothing under Chapter 36.

WILLIAMSON: Discusses a bill introduced by the Alternate Dispute Resolution Commission.

WISWALL: Discusses the cost aspect of the bill.

WILLIAMSON: Agrees that it could involve a substantial amount of money.

WISWALL: Expenses apply to depositions and fees incurred after the appeal. 188 HELENJANE WILLIAMS, OLDER WOMEN'S LEAGUE: Testifies and submits written testimony in opposition to Section 2 of bill. (EXHIBIT R)

243 CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains court's requirement to refer domestic relations suits. SB 308 doesn't change the current law

except in certain circumstances.

261 WILLIAMS: Refers to ORS 36.300 where private arbitration is not mandatory. Wants Section 2 deleted.

WISWALL: Explains proposed amendment.

289 REP. BAKER: Asks why so many Senators opposed the bill.

WISWALL: Explains why some may have opposed.

SB 308 - WORK SESSION

REP. BAKER: What was the rationale for allowing counties of under 75,000 to not participate?

331 CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains rationale behind Rep. Parks' -3 amendments.

REP. BAKER: The resources were minimal.

CAROLE SOUVENIR, COMMITTEE COUNSEL: This makes it mandatory.

342 REP. BROWN: These cases are appealable anyway.

REP. TARNO: Concerned about "mandatory."

REP. MASON: Insert "after the arbitration" after "incurred" on pg. 3, line 23 of the bill.

366 MOTION: REP. BROWN: Moves to ADOPT SB 308-A3 AMENDMENTS. (EXHIBIT S)

VOTE: 4-2 MOTION FAILS AYE: Baker, Brown, Courtney, Tiernan NO: Tarno, Mason EXCUSED: Brian, Edmunson, Parks

424 REP. TIERNAN: What is the standard for review of an arbitrator's decision? Why have the arbitration?

REP. BAKER: Discusses positive aspects of arbitration.

REP. BROWN: Explains how it is good in divorce cases.

SB 462 - PUBLIC HEARING

Witnesses: Frank Brawner, Oregon Bankers Association

471 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Testifies and submits written testimony in support of SB 462. (EXHIBIT T)

TAPE 77, SIDE A

046 REP. TIERNAN: Asks about conformance.

BRAUNER: Not in conformance because it is old. Explains why the problem exists.

SB 462 - WORK SESSION

069 MOTION: REP. COURTNEY: Moves SB 462 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES AYE: Baker, Brown, Courtney, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Edmunson, Mason

Rep. Baker to carry the bill.

SB 308 - WORK SESSION

079 REP. BROWN: Restates earlier action on the bill.

CHAIR PARKS: Asks Rep. Tarno why he voted "no" on the bill.

083 REP. TARNO: Concerned about "mandatory."

REP. BAKER: Asks if it was Rep. Parks' amendment.

CHAIR PARKS: Explains why he doesn't want the bill to be in effect in smaller counties.

094 REP. BAKER: Discusses his experience in the tri-county area.

CHAIR PARKS: Smaller counties have no arbitrators so should be permissive to them.

132 MOTION: REP. TIERNAN: Moves to RECONSIDER the vote by which the committee defeated SB 308-A3 AMENDMENTS.

VOTE: Hearing no objections the MOTION PASSES. Representatives Brian, Edmunson and Mason are excused.

139 MOTION: REP. BROWN: Moves to ADOPT SB 308-A3 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Representatives Brian, Edmunson and Mason are excused.

151 MOTION: REP. BROWN: Moves SB 308 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-1 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Mason, Tiernan, Parks NO: Tarno EXCUSED: Brian

Rep. Mason to carry the bill.

SB 1002 - WORK SESSION

184 MOTION: REP. BAKER: Moves SB 1002 TO THE FLOOR with a DO PASS recommendation.

189 HOLLY ROBINSON, COMMITTEE COUNSEL: States there was a clarifying amendment by the Dept. of Revenue. (See Exhibit J)

206 MOTION: REP. TIERNAN: Moves to ADOPT SB 1002-A3 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian is excused.

209 REP. EDMUNSON: Confirms that the other amendments have been moved by the committee.

235 BRAUNER: Discusses the effects of the amendments to Section 40.

260 LITTLE: Discusses the issue of accord and satisfaction.

284 BRAUNER: "Concern is the insertion and concurrence."

REP. TIERNAN: Withdraws motion to amend.

REP. BAKER: moves to floor

299 MOTION: REP. BAKER: Moves SB 1002 TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-1 MOTION PASSES AYE: Baker, Brown, Courtney, Mason, Tarno, Tiernan, Parks NO: Edmunson EXCUSED: Brian

Rep. Tiernan to carry the bill.

SB 1092 - WORK SESSION

335 ERIKSON: Discusses expungement records forwarded to the state repository.

365 AVERA: Explains amendment to delete all of Section 3 and on p. 2, Section 5, after "files" insert "after five years and 30 days that those records would automatically be deleted at the central repository but not at the local juvenile department level."

TRAVIS: Wants Section 3 to stay. Explains what the compromise would do.

397 MOTION: REP. COURTNEY: Moves to ADOPT SB 1092 CONCEPTUAL

AMENDMENTS as stated above.

CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains conceptual amendments.

413 REP. TARNO: Asks if that pertains only to juveniles.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian is excused.

421 MOTION: REP. COURTNEY: Moves SB 1092 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-1 MOTION PASSES AYE: Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: Brown EXCUSED: Baker, Brian

Rep. Tarno to carry the bill.

452 CHAIR PARKS: Adjourns the meeting at 4:55 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to SB 617 - 1 page B - Testimony on SB 724 - Sarah Castner - 1 page C - Testimony on SB 724 - Mark Kramer - 5 pages D - Testimony on SB 724 - Committee Counsel - 10 pages E - Testimony on SB 1002 - Oregon Bankers Association - 11 pages F - Testimony on SB 1002 - Oregon Bankers Association - 145 pages G - Testimony on SB 1002 - Mary Chaffin - 6 pages H - Testimony on SB 1002 - Gary Lindberg - 10 pages I - Testimony on SB 1002 - Oregon Credit Union League - 1 page J - Testimony on SB 1002 - Dept. of Revenue - 2 pages K - Testimony on SB 1002 - Oregon Financial Services Association - 6 pages L - Testimony on SB 1002 - Oregon Bankers Association - 5 pages M - Testimony on SB 1002 - Oregon Bankers Association - 1 page N - Testimony on SB 1092 - Juvenile Rights Project - 5 pages O - Testimony on SB 1092 - Larry OgleSB y - 1 page P - Testimony on SB 1092 - State Court Administrator - 4 pages Q - Testimony on SB 308 - William Wiswall - 7 pages R - Testimony on SB 308 - Older Women's League - 7 pages S - Proposed amendments to SB 308 - 3 pages T - Testimony on SB 462 - Oregon Bankers Association - 4 pages