

SENATE COMMITTEE ON  
JUDICIARY

April 28, 1993      Hearing Room C  
1:00 p.m.      Tapes

MEMBERS PRESENT:    Sen. Dick Springer,    Chair  
                          Sen. Jeannette Hamby  
                          Sen. Karsten Rasmussen  
                          Sen. Bob Shoemaker  
                          Sen. Gordon Smith  
                          Sen. Catherine Webber

MEMBERS EXCUSED:    Sen.

STAFF PRESENT:        Bill Taylor,    Committee Counsel  
                          Kirk Bailey,    Committee Assistant

ISSUES DISCUSSED:    Work Session on SB 928, SB 975, SB 813, SB 735, SB 1115,  
SB  
                          635, SB 1046, SB 966, SB 855  
                          Public Hearing on SB 1019, SB 916  
                          Public Hearing & Work Session on SB 162

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

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TAPE , SIDE A

003      CHAIR SPRINGER:    Opens the hearing at 1:25 pm.

SB 162:    Abolishes Corrections Education Advisory Committee

WITNESSES:  
MARY BOTKIN, AFSCME

MARY BOTKIN:    Testifies in opposition to the bill.

SB 1019:    Repeals sunset provision of ignition interlock requirements.

WITNESSES:  
ED LEEK, DEPARTMENT OF TRANSPORTATION

ED LEEK:    Submits and reviews written testimony with background information on the bill (EXHIBIT ).

SB 735:

tay: reviews bill and amendments -1, engrossed.  
csp: comments on work by shoe: and amendments. Urges committee to  
review  
amendments.

MOTION: shoe: amendments.  
VOTE: adopted.

MOTION: shoe:  
VOTE: do pass

SB 855:

tay: reviews bill. no amendments.  
ham: amendmets?  
csp: no  
ham: elevate priority?  
csp: yes. Describes and explains.

MOTION: ham:  
VOTE: do pass

SB 916:

WITNESSES:  
SENATOR CEASE  
ROSALIND MICKEY, CITIZEN  
CHARLENE GRANT, CENTRAL OREGON GRANDPARENT SUPPORT GROUP  
WILLIAM MARTIN, GRANDPARENT SUPPORT GROUP  
GARY CONKLING, HOLT INTERNATIONAL  
TIM TRAVIS, JUVENILE RIGHTS PROJECT  
DIANA ROBERTS, CHILDREN'S SERVICES DIVISION  
ANNABELLE JARAMILLO, COMMISSION ON HISPANIC AFFAIRS

SENATOR CEASE: Submits and reviews written testimony in support of the  
bill  
(EXHIBIT ).

alicia philpott: Testifies in support of the bill. Clarifies provisions  
of  
the bill on behalf of the Senator.  
csp: comments concerning court case.  
smi: declares emotional conflict of interest - adoptive father. One  
more  
level of conflict in this bill. Opposed to the bill.  
cease: Comments in response.  
committee interchange.  
tess springer: comments generally.  
cease continues response.  
smi: Comments in response. Concerned with practical implications  
for  
children in determining family connections through adoption. May  
create  
larger problems

cease: Agrees but someone must make the judgment and this body is not the appropriate place.

smi:

cease:

shoe: how does this work in situation where birth parent intends to give up

child and not learn of adoptive parents. Does that fall into the notice?

alicia: not provided in the bill. Amendment could include exemption in the form.

shoe:

alicia: yes.

shoe: if birth grandparent need to notified then it breaks this down.

alicia: yes.

shoe: is that accomodated in this bill?

alicia: yes. Describes further.

shoe:

cease: Comments on the notice issue. Not suggesting simply blood

relationship but further relationship.

shoe: birth grandparents shouldn't know adoptive parents at all, that is his

point. Especially if the parent does not want notice given.

alicia: Clarifies.

cease: bill doesn't adequately address at this point.

smi: Comments on his experience where problem comes with grandparents of the

father of the child.

cease: Issue of substantial relationship which they wouldn;t have under this

bill.

smi:

cease:

CHARLENE GRANT: Submits and reviews written testimony in support of the bill

(EXHIBIT ).

ROSALIND MICKEY: Testifies in support of the bill.

TIM TRAVIS: Submits and reviews written testimony in support of the bill

(EXHIBIT ).

smi: suggests travis assist with amendments. Focus should be on substantial

and what instructions are given to the judge.

travis: agrees. Would like to have children know entire family tree.

smi: not interested in anything that chills adoption. Afraid this bill will

chill adoption.

travis:

shoe: statute cite, what is taht about.

travis: ors 119. . Describes and reviews.

shoe:

travis: grandparents do have other rights.

shoe: would that statute be appropriate?

travis: possibly.

ras: clarifies statement by travis.

travis: Describes adoption experience and search for family ties.  
Statistics  
on closed adoptions.

GARY CONKLING: Submits and reviews written testimony in opposition to  
the  
bill (EXHIBIT ).

DIANA ROBERTS: Submits and reviews written testimony with suggested  
amendments  
in opposition to the bill (EXHIBIT ).

ANNABELLE JARAMILLO: Testifies generally with concerns about the  
bill.  
Comments on cultural differences in families.

csp: comments on committee business. Notes measures not heard this  
afternoon  
will be heard at evening hearing.

SB 975:

SENATOR KENNEMER: reviews bill and amendments. Joined by Carl Stecker  
and  
John Ellis. Submits amendments to the bill (EXHIBIT ).

csp: amendments basically create new bill.

JOHN ELLIS, DEPARTMENT OF JUSTICE: Notes his presence as an  
technical  
resource. Reviews amendments. Licenses chosen anecdotally.

Carl Stecker: Concurs with previous witnesses.

csp: inquires about fiscal impacts?

ellis: prepared fiscal impact. Do not expect significant effect. Cost  
can  
be refunded.

>expect collections to be high. Not included DHR costs.

web: Notes licensee's included, why were these people selected.

ellis: I selected in consultation, anecdotal information. Criteria:  
1)

self-employed. 2. especially concerning truck drivers, seem to be elusive.  
3.

Impressions from practitioners. Excluded nurses, doctors and lawyers  
because

they do not have large numbers of case loads.

web: did you go through statutes for licensing boards?

ellis: yes.

web: is individual unemployed how does that fit?

ellis: handled by rule which states that DHR would formulate rules  
which

would state....

web: makes her nervous.

kennemer: comments on the issue.

ellis: clarifies further.

web: also thinking of HJR 22.

csp: inquires if committee is ready to proceed.

MOTION: amendments, shoe:  
VOTE: no objection.  
further dicusion.

MOTION: csp: do pass  
VOTE: in a roll call

lc 3912. introduced.

MOTION:  
VOTE:

SB 635:

SENATOR YIH: reviews bill and amendmets (EXHIBITS ).

john ellis, doj: comments generally on the amendments.

csp: ways and means?

yih: yes.

shoe: taken out reference to those on public assistance, why?

yih: explains.

SENATE COMMITTEE ON  
' JUDICIARY  
April 28, 1993 Hearing Room C  
5:30 p.m. Tapes 131-134  
MEMBERS PRESENT: Sen. Dick Springer, Chair  
Sen. Jeannette Hamby  
Sen. Karsten Rasmussen  
Sen. Bob Shoemaker  
Sen. Gordon Smith  
Sen. Catherine Webber  
MEMBERS EXCUSED: Sen.  
STAFF PRESENT: Karen Quigley, Committee Counsel  
Kirk Bailey, Committee Assistant  
ISSUES DISCUSSED: Work Session on SB 7, SB 61  
Public Hearing on SB 410, SB 575, SB 574  
Public Hearing & Work Session on SB 222, SB 255  
. / .

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TAPE 131, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 5:38 pm. Reviews committee agenda.

SB 410: Allows Adjutant General to appoint individuals as temporary Assistant State Judge Advocates who are legally trained but need not be lawyers or members of Oregon State Bar.

WITNESSES:

SENATOR JIM BUNN

MIKE CALDWELL, OREGON MILITARY DEPARTMENT

009 SENATOR BUNN: Testifies in support of the bill.

032 MIKE CALDWELL: Submits and reviews written testimony in support of the bill (E=IIBIT A).

048 SEN. WEBBER: What do judge advocates do?

CALDWELL: Explains staff judge advocate position which provides legal counsel to the military  
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department.

057 SEN. WEBBER: Do they have good liability tort coverage?

CALDWELL: Covered under federal statutes.

062 SEN. WEBBER: They will be practicing law, not performing legal assistant duties?

CALDWELL: Yes. Top phase deals with Oregon defense force which doesn't have federal status.

069 SEN. WEBBER: What do they do?

SEN. BUNN: Primarily operating as a legal clerk. If a matter required a member of the bar then member from National Guard who is a part of the Judge Advocate corps would be provided.

075 SEN. WEBBER: Under lawyer supervision?

SEN. BUNN: Yes. Slots exist but there are no lawyers to fill the slots.

079 SEN. WEBBER: Other part?

CALDWELL: Addresses judicial officers who are staff judge advocates in the National Guard, they perform regular legal services. > Two entities Oregon

National Guard and Defense Force.

086 SEN. WEBBER: Bill applies to both. Explain how it applies to second group?

SEN. BUNN: Applies to only two people who are judges. Cannot practice law and be a judge. This bill allows them to do that in their capacity as a member of the Guard.

097 SEN. WEBBER: Comments generally on the issue.

SEN. BUNN: Two parts of the bill are very different. Second part clarifies a very specific problem.

1 10 SEN. SHOEMAKER: Agreeable to amendment to clarify and restrict roles?

SEN. BUNN: That is acceptable.

1 16 SEN. SHOEMAKER: Requests amendment to further clarify appropriate roles.

1 17 CHAIR SPRINGER: Counsel will draft amendments.

120 SEN. RASMUSSEN: Has anyone spoken with judges?

CALDWELL: No. 5

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> Spoke with Wallace Carson about the bill and he concurred with the bill. It was also reviewed by staff judge advocate with no negative response.

SB 1 115: Provides that mediation may be used in resolving certain criminal and juvenile offenses.

042 TAYLOR: Reviews bill and SB 1115-2 and -3 amendments (EXHIBITS B & C). SB 1115-3 rewrites the bill.

~ Notes need to amend relating clause.

168 CHAIR SPRINGER: Proponent of -2?

TAYLOR: Dispute resolution commission.

173 CHAIR SPRINGER: Allows comments from witnesses.

> Does this apply to all civil cases? What happens in large, complex, multiple count, multiple defendant case?

185 ROSS RUNKEL, DISPUTE RESOLUTION COMMISSION: Reviews -2 amendments.

> No mandatory characteristic to the legislation and the amendments do not change that.

198 CHAIR SPRINGER: Who is speaking for -3 amendments?

ALICE PHELAN: Reviews -3 amendments.

220 CHAIR SPRINGER: Someone suggests technical amendments?

222 RUNKEL: Submits and reviews additional amendments to the bill (EXHIBIT D).

240 CHAIR SPRINGER: Reduces cost to court and adds to parties for materials required by the mediator.

RUNKEL: If materials are needed mediator wouldn't want to see anyway.

246 MOTION: SEN. SHOEMAKER: moves to ADOPT SB 1115-2 amendments, dated 412 6193,

SB 1115-3, dated 4126193, and technical amendments submitted by Dispute Resolution

Commis-sion.

VOTE: Hearing no objection, the amendments are ADOPTED.

254 MOTION: SEN. SHOEMAKER: moves SB 1115, AS AMENDED, be sent to the floor  
with

a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is  
excused.

267 CHAIR SPRINGER: The motion CARRIES.

SEN. SHOEMAKER will lead discussion on the floor.

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statements made during this session. Only text enclosed in quotation marks  
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SB 928: Requires Department of Corrections, following treatment guidelines  
established by Mental Health and Developmental Disability Services Division  
to establish psychological and medical treatment programs for all person  
convicted of sex crimes that are also \_

RICHARD LIPPINCOTT, DISABILITY SERVICES DIVISION: Submits and written  
testimony in opposition to the bill (EXHIBIT G).

272 TAYLOR: Reviews bill and SB 928-1 amendments (EXHIBIT E).

290 SEN. HAMBY: Submits and reviews hand engrossed amendments (EXHIBIT F)  
and additional  
- information on the bill (EXHIBIT H).

367 SEN. SHOEMAKER: Notes requirement on line 14, page 2 that person  
eligible for parole,  
convicted of sex crime, would undergo an evaluation. That part is  
mandatory?

374 SEN. HAMBY: Correct. That is current procedure. Describes program  
further.

381 SEN. SHOEMAKER: Evaluation is a requirement?

SEN. HAMBY: If person wants treatment.

387 SEN. SHOEMAKER: But first there is an evaluation and then a  
determination of treatment?

391 CHAIR SPRINGER: Calls Dennis Dowd while committee considers evaluation  
issue.

399 SEN. HAMBY: Clarifies that provision on line 14, page 2 should state  
"may" rather than

"shall".

403 SEN. SHOEMAKER: So board "may require"? How does it work?

SEN. HAMBY: Board "shall require", that is the "may" on line 14.

412 SEN. SHOEMAKER: That leaves discretion up to the board not the prisoner.

SEN. HAMBY: Prisoner has to agree for it to be an successful agreement.

418 SEN. SHOEMAKER: Does the prisoner have to agree to undergo evaluation?

421 TAYLOR: Recommends staff present information.

427 DENNIS DOWD, DEPARTMENT OF CORRECTIONS: Change would work for the  
department.

> Board sometimes requires evaluation. No expected financial impact. Action  
of board would not require inmate consent.

445 SEN. SHOEMAKER: Provision is not worded to determine eligibility, but  
for suitability for  
treatment? Reviews language.

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statements made during this session. Only text enclosed in quotation marks  
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465 DOWD: Board currently establishes release date, and conditions of  
release. Evaluation can  
be

required.  
> Provision allows board to continue current practice.

485 SEN. SHOEMAKER: So it should say, shall require that a person who is  
eligible for  
consideration. . . " ?  
DOWD: Problem is that not all inmates are evaluated.

TAPE 132, SIDE A

041 SEN. SHOEMAKER: Drops the issue.  
045 CHAIR SPRINGER: Fiscal impact?

DOWD: Current version should not have impact. Currently doing all this.

053 CHAIR SPRINGER: What is the inclination of the committee?  
055 SEN. HAMBY: Reviews section of bill, page 3, lines 14-16 not reviewed by  
Legislative  
Counsel. Section relates to reporting back to the Assembly.  
062 SEN. SHOEMAKER: Line 14, page 1; "the cause" should read "a cause".

CHAIR SPRINGER: Amendment as to style and technicality.

069 MOTION: SEN. HAMBY: moves to ADOPT SB 928-1 amendments, dated 4/28/93  
with  
further conceptual amendments on page 3, lines 14-16 and page 2, line 14  
"shall" to "may".

VOTE: Hearing no objection, the amendments are ADOPTED.

077 MOTION: SEN. HAMBY: moves SB 928, AS AMENDED, be sent to the floor with  
a  
DO

PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is  
excused.

081 CHAIR SPRINGER: The motion CARRIES.

SEN. HAMBY will lead discussion on the floor.

SB 966: Allows member of organized militia who is called to and enters  
active military service of United States to delegate powers as parent or  
guardian of minor child to another person for up to four years.

083 TAYLOR: Reviews bill and SB 966-1 amendments with engrossed version  
(EXHIBITS I & J).

099 CHAIR SPRINGER: Sponsors have reviewed the amendments?

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TAYLOR: Yes. They are not opposed.

106 MOTION: SEN. HAMBY: moves to ADOPT SB 966-1 amendments, dated 4/27/93.  
VOTE: Hearing no objection. the amendments are ADOPTED.

110 MOTION: SEN. HAMBY: moves SB 966, AS AMENDED, be sent to the floor with  
a DO

PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is  
excused.

118 CHAIR SPRINGER: The motion CARRIES.

SEN. BUNN will lead discussion on the floor.

SB 813: Provides that criminal impersonation of peace officer is punishable  
by maximum of five years imprisonment, \$100,000 fine, or both.

CRIMINAL JUSTICE COUNCIL submitted additional fiscal impact information on the bill (EXHIBIT L).

DEAN RENFROW, OREGON STATE POLICE: submitted written testimony in support of the bill (EXHIBIT M).

121 TAYLOR: Reviews bill and SB 813-2 amendments (EXHIBIT K).  
141 CHAIR SPRINGER: Do the amendments reflect the intentions of the  
proponents?

TAYLOR: Yes.

147 SEN. SHOEMAKER: What is the difference between -1 and -2 amendments?

TAYLOR: Relating clause.

158 MOTION: SEN. RASMUSSEN: moves to ADOPT SB 813-2 amendments, dated  
412 3193.

VOTE: Hearing no objection, the amendments are ADOPTED.

162 MOTION: SEN. RASMUSSEN: moves SB 813, AS AMENDED, be sent to the floor  
with a

DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is  
excused.

166 CHAIR SPRINGER: The motion CARRIES.

SEN. RASMUSSEN will lead discussion on the floor.

SB 1046: Exempts from civil forfeiture any property that is seized based on consensual search of motor vehicle unless multilingual notice of rights is provided and written consent is

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obtained.

ANNABELLE JARAMILLO, COMMISSION ON HISPANIC AFFAIRS: submitted written testimony in support of the bill (EXHIBIT O).

169 TAYLOR: Reviews bill and SB 1046-1 amendments (EXHIBIT N).

-

206 MOTION: SEN. HAMBY: moves to ADOPT SB 1046-1 amendments, dated  
412 8193.

210 SEN. WEBBER: Does section 4 accomplish the statement that there will be no implication if it is more than \$15,000?

TAYLOR: Comments from Mr. Penn at last hearing on this bill were intended to create legislative history relating to this issue. , > There should be no inference drawn from finding cash only.

220 SEN. WEBBER: So legislative history is sufficient

TAYLOR: Correct.

224 VOTE: Hearing no objection, the amendments are ADOPTED.

226 MOTION: SEN. HAMBY: moves SB 1046, AS AMENDED, be sent to the floor with  
a DO

PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

232 CHAIR SPRINGER: The motion CARRIES.

SEN. HAMBY will lead discussion on the floor.

SB 7: Excludes archaeological objects from definition of treasure trove.

238 QUIGLEY: Reviews bill. No amendments.

246 CHAIR SPRINGER: Notes no opposition to the bill.

250 MOTION: SEN. RASMUSSEN: moves SB 7 be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is excused.

258 CHAIR SPRINGER: The motion CARRIES.

SEN. RASMUSSEN will lead discussion on the floor.

SB 61: Defines archaeological terms. 5

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STEVE GERLT, CITIZEN: submitted written testimony only in opposition to the bill (EXHIBIT R).

DAKOTA WHITECLOUD, CONFEDERATED TRIBES OF GRAND RONDE: submitted written testimony in support of the bill (EXHIBIT T).

CLEMENT MEIGHAN, CITIZEN: submitted written testimony only in opposition to the bill (EXHIBIT V).

266 QUIGLEY: Reviews bill and engrossed amendments from staff (EXHIBIT Q & U). > Submits additional background information on the bill (EXHIBIT P).

328 JAMES HAMRICK, STATE HISTORIC PRESERVATION OFFICE: Testifies in support of the bill.

370 DON DUMOND, PROFESSOR, UNIVERSITY OF OREGON: Submits and reviews written testimony in support of the bill (EXHIBIT S).

TAPE 131, SIDE B

DUMOND: Completes testimony in support.

034 SEN. SHOEMAKER: Conflicts with appellate process which has ad hoc board from places which look to be places of curation?

DUMOND: Possibly. Person from the Museum included on the board.

039 SEN. SHOEMAKER: Is that a problem?

DUMOND: Doesn't think it is a problem. Person could declare conflict of interest.

042 SEN. SHOEMAKER: Appeal made to board consisting of representatives from four different agencies. Need one from each and if there is an issue about state museum being the appropriate place for curation. doesn't that create a possible conflict?

DUMOND: True, but State Historic Preservation Office already issues permits and is in conflict.

048 SEN. SHOEMAKER: Is including place of curation appropriate?

DUMOND: Also places in same process for aggrieved persons.

053 SEN. SHOEMAKER: Other disputes are similarly resolved?

DUMOND: Correct.

059 SCOTT STEMKY, CONFEDERATED TRIBES OF WARM SPRINGS: Testifies in support of the bill.

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070 SEN. HAMBY: Notes Executive Summary and letter from 5 tribes, where are the other tribes?

STEMKY: Clarifies who is represented.

095 MICHAEL MASON, CONFEDERATED TRIBES OF GRAND RONDE: Testifies in support of the bill. Responds to Dumond comments.

130 CHAIR SPRINGER: Suggests possible process to address concerns over inclusion of state museum on appeal board.

141 MASON: Suggests waiting a couple years and seeing if issues come up over place of curation.

153 DOUGLAS HUTCHISON, COMMISSION ON INDIAN SERVICES: Comments on dispute resolution issue. Section incorporated i ~-the original bill.

176 CHAIR SPRINGER: Do you support revision generally.

HUTCHISON: I am in an awkward position representing 9 different tribes.

Commission

generally supports the bills.

192 CHAIR SPRINGER: No major disagreements with the bill?

HUTCHISON: No.

198 CHAIR SPRINGER: Hopes issue in Phelan amendments addressed by subsection c.

> Perhaps it can be further clarified in the House.

210 GORDON BETTLES, KLAMATH TRIBE: Tribe opposed to excavation of any kind.

> Support the bill generally. Klamath supports with reservations. Section

11, ORS

> Reviews concerns about the bill.

265 CHAIR SPRINGER: Requests counsel review suggested language.

267 QUIGLEY: Concerning page 7, subsection 1 after "a professional

archaeologist" insert "with

the written approval of the appropriate tribe may excavate a native Indian cairn or burial".

Correct?

280 SEN. SHOEMAKER: Doesn't that effectively make subsection 1 unnecessary?

287 MASON: The difference is in the first clause of subsection 1, where it states "if such action is

necessary to protect the burial from imminent destruction".

SEN. SHOEMAKER: But then what you have to go through is the same?

304 CHAIR SPRINGER: If it is duplication; is it fatal or for purposes of clarification?

308 MASON: Concern is the apparent misinterpretation of the statutes by developers.

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> Purpose was to make it very clear about written approval from tribes.

324 BETTLES: Clarifies definition of imminent destruction and tribal  
definition versus developer definition.

346 SEN. SHOEMAKER: Any circumstances where excavation could be done without  
tribal consent?

BETTLES: No.

351 SEN. SHOEMAKER: Highways, pipelines, similar developments?

BETTLES: No. In current practice, developers must go around or plan a  
different development method.

378 MASON: Statute doesn't deal with federal licensing issues.

> Suggests further amendments to section 1, dropping Oregon State Police  
into section 2 and then dropping section 1.

402 CHAIR SPRINGER: Doesn't think this will fatally affect the bill, but  
issue is at the disposal of committee.

418 SEN. SMITH: Concerned about those who make a hobby of collection of  
artifacts and how they

would be affected by provisions on page 7.

> Do these people all become ex post facto criminals? Clarify intent?

Provision doesn't have  
date certain or grandfather clause.

444 HUTCHISON: Provision follows lead of other states where artifacts were  
used as tourist attractions.

TAPE 132, SIDE B

030 MASON: Oregon and U.S. Constitution prohibits ex post facto laws.  
> ORS 97.750 only refers to Indian graves protection act, making this  
consistent with federal provisions.

> These provisions do not open up collections to seizure.

053 SEN. SMITH: Do private collections fall under definition of sacred  
indian object or cultural patrimony?

MASON: No. Items are covered if actually buried then are funerary objects.

073 SEN. WEBBER: Refers to requirements for qualified archaeologist; are  
those requirements for an archeology degree?

079 MASON: Defers to Dumond.

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082 SEN. WEBBER: Concerned about putting into statute requirements of this  
kind.

MASON: Experienced problems with people who were not qualified. Tribes want  
professional people.

089 SEN. WEBBER: Statute defines professional archaeologist differently.

STEMKY: Clarifies further. > Provision meets Interior secretary  
requirements for professional.

100 SEN. WEBBER: Why not just state masters or Ph.d degree?

102 CHAIR SPRINGER: Inquires about the line of questioning and notes timetable on the bill.

108 MASON: No problems with current statute.

DUMOND: These requirements open it up.

114 SEN. SHOEMAKER: Significant policy issues in section 11. > Concerned if subsection 1 is amended requiring tribal consent then, if consent not given, destruction will occur.

134 MASON: Does raise policy issues of priority of Indian burial grounds versus a development project.

139 SEN. SHOEMAKER: Nothing in the bill that would stop the development awaiting a decision?

MASON: Interpretation is that development must be halted when burial discovered.

156 SEN. SHOEMAKER: Somewhere in act there are provisions that stop development?

MASON: Correct. With notification requirements.

160 SEN. SHOEMAKER: This doesn't significantly change current law? > This requires more than notice but consent?

JEFF VAN PELT: Present law mandates supervision of reinterment by tribe.

170 SEN. SHOEMAKER: Present law allows action with notice, but not consent.

MASON: Present law is vague.

176 BETTLES: This works in concert with Native Americans Grave Protection Act.

200 JOHN MCCULLY, OREGON CATTLEMAN'S ASSOCIATION: Testifies with concerns about the bill. > Specifically; page 6, section 8, subsection 2.

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228 CHARLES JODY KALEEK, CONFEDERATED TRIBES OF WARM SPRINGS: Testifies in support of the bill.

270 MOTION: SEN. SHOEMAKER: moves to AMEND SB 61 to strike subsection 1, section 11, and amend subsection 2, line 4 to refer to the State Historic Preservation officer and OSP. In addition, remove "except as provided is subsection 1 of this section" on line 1.

> Offers reasoning for amendments.  
309 QUIGLEY: Is there any difference between excavation and other parts of subsection 1 which would be lost if the subsection was deleted?  
MASON: No. <-;

322 QUIGLEY: Reviews Shoemaker's amendment. -  
346 MASON: Need to add "associated" after "all" end before "material".

361 SEN. SHOEMAKER: Clarifies amendments.  
377 VOTE: Hearing no objection, the amendments are ADOPTED.  
384 MOTION: CHAIR SPRINGER: moves to AMEND SB 61 to include corrections from Hamriclc on page 8, 5th line from bottom; page 9, 9th line from top; "and" at the

end of subsection c. ~ ~

VOTE: Hearing no objection, the amendments are ADOPTED.

398 MOTION: CHAIR SPRINGER: moves to ADOPT Staff amendments to SB 61, replacing the bill. VOTE:Hearing no objection, the amendments are ADOPTED.

409 MOTION: CHAIR SPRINGER: moves SB 61, AS AMENDED, be sent to the floor with a DO PASS recommendation.

413 SEN. HAMBY: Notes need to inform proponents and ensure further amendments are considered

on the House side.

427 VOTE: In a roll call vote all members present vote AYE.

431 CHAIR SPRINGER: The motion CARRIES.

CHAIR SPRINGER will lead discussion on the floor.

SB 222: Provides procedures to be followed when bankruptcy petition is filed by or on behalf of debtor after writ of garnishment has been delivered to garnishee.

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WITNESSES:

FRANK BRAWNER, OREGON BANKERS ASSOCIATION

ROBERT ALTMAN, OSB : Submits written testimony only with amendments in support of the bill (EXHIBIT W).

TAPE 133, SIDE A

012 FRANK BRAWNER: Submits and reviews written testimony in support of the bill (EXHIBIT

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043 CHAIR SPRINGER: Support Altman amendments?

BRAWNER: Yes. '

049 SEN. SHOEMAKER: Reviews changes regarding who may be delivered notice of garnishment? Could you review and clarify?

BRAWNER: Section 3. Still have options from the current code, or at a location designated by the institution.

069 SEN. SHOEMAKER: Changed "shall" to "may", so it creates different way for person to select delivery of notice.

BRAWNER: Correct.

076 MOTION: CHAIR SPRINGER: moves to ADOPT Altman amendments, from memorandum dated 4128193. VOTE: Hearing no objection, the amendments are ADOPTED.

081 MOTION: SEN. WEBBER: moves SB 222, AS AMENDED, be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

091 CHAIR SPRINGER: The motion CARRIES.

SEN. WEBBER will lead discussion on the floor.

096 SEN. SMITH: Introduces Boy Scout troop from Keizer as guests.

SB 255: Allows holder of perfected security interest to recover certain amounts from specified lienholders if lienholder fails to send notice of

lien claim to secured party.

WITNESSES:

FRANK BRAUNER, OREGON BANKERS ASSOCIATION  
WALT GOWELL, PURINA MILLS  
JOHN MCCULLEY, AGRICULTURAL COOPERATIVE COUNCIL

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104 FRANK BRAUNER: Testifies in support of the bill. Submits proposed amendments (EXHIBIT Y).

134 WALT GOWELL: Reviews amendments. 157 BRAUNER: Comments on public feedback.

165 JOHN MCCULLEY: Testifies in support of the amendments.

173 SEN. SMITH: Reviews message from Mike Meelcer opposed to the bill.

- MCCULLEY: His concerns are addressed under these amendments.

186 BRAUNER: Law doesn't change with this bill. Notice is still required.

191 GOWELL: Notes cooperative relationships between agricultural cooperatives and the banking industry.

206 SEN. SHOEMAKER: Suggests effective date be January 1, 1994.

BRAUNER: Yes.

212 MOTION: CHAIR SPRINGER: moves to ADOPT Brauner amendments. VOTE: Hearing no objection, the amendments are ADOPTED.

217 MOIION: CHAIR SPRINGER: moves SB 255, AS AMENDED, be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

221 CHAIR SPRINGER: The motion CARRIES.

SEN. SMITH will lead discussion on the floor.

SB 575: Specifies priorities in goods between cosignors and creditors relating to goods on consignment.

WITNESSES:

LEE NUSICH, OREGON BANKER ASSOCIATION

229 LEE NUSICH: Submits and reviews written testimony in support of the bill (EXHIBIT Z).

307 QUIGLEY: Notes SB 575 is only scheduled for public hearing.

315 CHAIR SPRINGER: In accordance with committee rules, opens work session on SB 575 without objection.

318 MOTION: CHAIR SPRINGER: moves SB 575 be sent to the floor with a DO PASS

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recommendation.

VOTE: In a roll call vote all members present vote AYE.



324 CHAIR SPRINGER: The motion CARRIES.

CHAIR SPRINGER will lead discussion on the floor.

SB 574: Provides that trustee must obtain court approval to resign unless resignation is expressly authorized by trust instrument and trust instrument provides for appointment of successor trustee.

WITNESSES: JAMES PERRY, OREGON BANKERS ASSOCIATION  
ROSS LAYBOURN,  
DEPARTMENT OF JUSTICE

339 JAMES PERRY: Submits and reviews written testimony in support of the bill (EXHIBIT AA & BB).

485 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Concurs with Perry amendments.

TAPE 134, SIDE A

041 ROSS LAYBOURN, ASSISTANT ATTORNEY GENERAL: Concurs with the Perry amendments.

048 QUIGLEY: Reviews amendments proposed by Perry.  
PERRY: Will provide written copy of the amendments.

059 SEN. SHOEMAKER: What happens if trustee decides to terminate and a person notified doesn't

agree?

PERRY: Response is the sole discretion of the trustee.

> Disagreement would have to be adjudicated.

CHAIR SPRINGER: In accordance with committee rules, opens SB 574 for work session without objection. ~~

097 MOTION: CHAIR SPRINGER: moves to ADOPT Perry amendments. VOTE: Hearing no objection, the amendments are ADOPTED.

113 MOTION: CHAIR SPRINGER: moves SB 574, AS AMENDED, be sent to the floor with a

DO PASS recommendation. --~

VOTE: In a roll call vote all members present vote AYE. SEN. SMITH is excused.

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123 CHAIR SPRINGER: The motion CARRIES.

SEN. SMITH will lead discussion on the floor.

128 CHAIR SPRINGER: Adjourns hearing at 8:00 pm.

Submitted by: Reviewed by:

Kirk Bailey      Karen Qui  
Assistant      Administrator

EXHIBIT LOG:

- A - Testimony on SB 41, Mike Caldwell, 1 page -
- B - Amendment to SB 1115, Staff, 1 page -
- C - Amendment to SB 1115, Staff, 3 pages
- D - Amendment to SB 1115, Dispute Resolution Commission, 1 page ~
- E - Amendment to SB 928, Staff, 1 page-
- F - Amendments to SB 928, Sen. Hamby, 3 pages
- G - Testimony on SB 928, Richard Lippincott, 2 pages ~

H - Testimony on SB 928, Bill Linden, 3 pages  
I - Amendments to SB 966, Staff, 1 page-  
J - Amendments to SB 966, Staff, 1 page \_  
K - Amendments to SB 813, Staff, 2 pages  
L - Testimony on SB 813, Criminal Justice Council, 1 page  
M - Testimony on SB 813, Dean Renfrow, 4 pages ~  
N - Amendments to SB 1046, Staff, 1 page  
O - Testimony on SB 1046, Annabelle Jaramillo, 3 pages '  
P - Testimony on SB 61, Staff, 2 pages ~  
Q - Testimony on SB 61, Staff, 10 pages  
R - Testimony on SB 61, Steve Gerlt, 3 pages ~  
S - Testimony on SB 61, Don Dumond, 4 pages~  
T - Testimony on SB 61, Dakota Whitecloud, 2 pages-  
U - Testimony on SB 61, Staff, 5 pages-  
V - Testimony on SB 61, Clement Meighan, 4 pages ~  
W - Testimony on SB 222, Robert Altman, 2 pages  
X - Testimony on SB 222, Frank Brawner, 3 pages~  
Y - Testimony on SB 255, Frank Brawner, 1 page  
Z - Testimony on SB 575, Lee Nusich, 3 pages  
AA - Testimony on SB 574, James Perry, 5 pages ~  
BB - Testimony on SB 574, 3 pages

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