

SENATE COMMITTEE ON
JUDICIARY

May 28, 1993 Hearing Room C
1:00 p.m. Tapes 175 - 176

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

VISITING MEMBERS: Rep. Carol Oakley

STAFF PRESENT: Karen Quigley, Legislative Counsel
 Bill Taylor, Legislative Counsel
 Kate Wrightson, Committee Administrator
 Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED: Public Hearing & Possible Work Session on HB 2737,
HB
225 0,
HB

2249, HB 2247, HB 2231, HB 2228, SB 617, SB 951

Public Hearing & Work Session on SB 1122
Work Session on SB 988, SB 462

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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.

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TAPE 175, SIDE A

012 CHAIR SPRINGER: Opens hearing at 1:45 p.m.

PUBLIC HEARING & WORK SESSION
SB 1122: Creates Criminal Law Revision Commission.

024 WALLACE CARSTON, SALEM: Testifies in support of SB 1122.

SEN. SHOEMAKER: Do you have any thoughts regarding the make up of the Commission?

056 CARSTON: It is a broad based committee assignment. This bill is a challenge for the Commission.

071 BILL CROSS, CHIEFS OF POLICE: Submits and reviews testimony in support of SB 1122. (EXHIBIT A)

085 CHAIR SPRINGER: Have you reviewed the SB 1122-1 amendments with Mr. Snider?

CROSS: Yes. He has spoken to other organizations in regards to addressing the fiscal impact.

095 MOTION: SEN. SHOEMAKER: Moves to ADOPT SB 1122-1 amendments, in addition to the changes Bill Cross described.

VOTE: Hearing no objections the amendments are ADOPTED.

102 MOTION: SEN. SHOEMAKER: Moves that SB 1122 as amended be sent to the Ways and Means Committee with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. HAMBY and SEN. WEBBER EXCUSED.

The motion is ADOPTED.

PUBLIC HEARING & POSSIBLE WORK SESSION

SB 951: Regulates relationship between supplier and retailer of farm implements.

113 REP. OAKLEY, DISTRICT 36: Testifies in support of SB 951.

152 RON MOORE, PACIFIC NW HARDWARE AND IMPLEMENT ASSOCIATION: Testifies in support of SB 951.

158 BILL DOLAN, PACIFIC NW HARDWARE & IMPLEMENT ASSOCIATION: Testifies in support of SB 951.

217 MOORE: Gives overview of the bill.
- Section 2 outlines what suppliers won't do to the local dealers.
- Section 4 provides 90 days notice to the dealer if there is going to be a termination.
- Arbitration is one of the key issues.

271 SEN. G. SMITH: We have a letter indicating John Deer's support. I'm confused about why they want to terminate Mr. Dolan's contract. Concerned about requiring anyone to contract with someone if there is something of a personal nature in the contract.

MOORE: There is competition causing us to fight back and forth.

287 SEN. G. SMITH: Do you read this bill as saying they can't terminate
your
contract?

MOORE: If we don't pay our bills they can break contract. Our
relationship with John Deer is good, but we don't know what John Deer
personnel we'll be dealing with in the future.

301 SEN. G. SMITH: Conversely, they don't know who is going to be
your
successor. You can't write a state statute saying, for example, John
Deer has to deal with whomever you choose to sell your business to.

312 MOORE: Our line of successors is set.

SEN. SHOEMAKER: Does your contract continue indefinitely?

321 DOLAN: We sign a renewal yearly with John Deer.

SEN. SHOEMAKER: This seems to say that they could cancel at the end of
the year with 90 days notice.

MOORE: The arbitration does allow the bill that opportunity.

340 SEN. SHOEMAKER: The arbitrator must decide, under law, if the
company
has a right to terminate the agreement. If there is 90 days notice he
will have to say the law is confided with.

DOLAN: If the law stays as it is that doesn't mean we shall rollover.

CHAIR SPRINGER: Is this the bill you passed in the House last session?

361 MOORE: Yes, with the inclusion of the arbitration agreement.

CHAIR SPRINGER: Which committee dealt with it last session?

367 MOORE: Consumer and Business Affairs.

376 MOTION: SEN. SHOEMAKER: Moves that SB 951 be sent to the Floor with a
DO
PASS recommendation.

VOTE: In a roll call vote SEN. HAMBY, SEN. SHOEMAKER, CHAIR SPRINGER,
SEN. WEBBER, SEN. G. SMITH vote AYE. SEN. RASMUSSEN votes NAY.

The motion is ADOPTED. SEN. BUNN will CARRY.

WORK SESSION

SB 462: Deletes provision making Uniform commercial Code Secured
Transactions

inapplicable

to

transfers of interest in deposit accounts.

400 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Submits and reviews
written
testimony in support of SB 462. (EXHIBIT D)

407 QUIGLEY: Gives overview of machine-engrossed, the -2 amendments, and
the
conceptual amendments.

TAPE 176, SIDE A

003 BRAUNER: Continues testimony.

022 MOTION: SEN. HAMBY: Moves to ADOPT the proposed SB 462 amendments
as
further amended, the machine-engrossed version and the SB 462-1
amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

027 MOTION: SEN. HAMBY: Moves that SB 462 as amended be sent to the
Floor
with a DO PASS recommendation.

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

032 The motion is ADOPTED. SEN. G. SMITH will CARRY.

SB 988: Authorizes physician to issue Emergency Medical Services Do
Not
Resuscitate Order to
patient.

043 QUIGLEY: Gives overview of SB 988-1 and SB 988-2 amendments. (EXHIBIT
E,
F, G)

060 SEN. SHOEMAKER: The -1 amendments tie these into DNR orders that
have
been entered in the hospital record of the patient.

079 HOWARD KIRKWOOD, EMERGENCY MEDICAL SERVICES: Testifies in support of
SB
988 amendments.

085 LARRY BLOOMINGSTEIN, EMERGENCY MEDICAL SERVICES: Testifies in support
of
SB 988 amendments.

086 BOB CASTAGNA, OREGON CATHOLIC CONFERENCE: Testifies in support of SB
988
amendments.

093 MOTION: SEN. SHOEMAKER: Moves to ADOPT SB 988-1 amendments.

VOTE: Hearing no objections the amendments are ADOPTED.

096 MOTION: SEN. WEBBER: Moves to ADOPT SB 988-2 amendments.

VOTE: In a roll call vote SEN. HAMBY, SEN. RASMUSSEN, SEN. SHOEMAKER,
SEN. WEBBER, SEN. G. SMITH vote AYE. CHAIR SPRINGER votes NAY.

111 SEN. SHOEMAKER: The reason the bill came to this committee was
section
3, which is the penalty provisions.

124 MOTION: SEN. SHOEMAKER: Moves that SB 988 as amended be sent to
the
Floor with a DO PASS recommendation.

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

The motion is ADOPTED. SEN. SHOEMAKER will CARRY.

PUBLIC HEARING & POSSIBLE WORK SESSION

HB 2737: Provides for forfeiture and destruction of deadly weapons used
during
commission of
crime.

140 BRYON BEAULIEU, WINSTON POLICE DEPARTMENT/OCPA: Testifies in support
HB
2737.

- We have to turn weapons back to family of felon. Therefore, when
he gets out of jail he can use the weapon again.

203 SEN. G. SMITH: Is there any opposition?

BEAULIEU: Just one opposition on House side from a Firearms Collectors
Association. They didn't want collectible guns destroyed.

217 SEN. SHOEMAKER: The law says you don't have authority to
destroy
weapons.

227 FRED AVERA, ODAA: Submits and reviews written testimony in support of
SB
2737. (EXHIBIT H)

- There is a way to legally dispose of a weapon.
- Our amendment would allow any weapon that is unlawfully possessed
to be declared a nuisance and disposed of.

SEN. HAMBY: I don't like the idea of law enforcement agencies acting
as
merchants of weapons. How about meltdown?

282 BEAULIEU: We use some weapons for police training. The weapons we
sell
are ones already available to the public.

SEN. HAMBY: What are annual receipts from your sales?

298 BEAULIEU: Between \$500 and \$1,000.

SEN. HAMBY: Would you feel uncomfortable with a meltdown amendment?

304 BEAULIEU: I wouldn't like to have my options limited.

SEN. G. SMITH: There should be a reasonable compromise.

328 SEN. HAMBY: I have no problem with training and merchandizing
collectors
items.

338 SEN. SHOEMAKER: Any deadly weapon that is unlawfully possessed
would
apply to firearms without a permit. Are there any other weapons that
could fall into this category?

AVERA: Most other deadly weapons are unlawful because of the manner of
their possession, i.e. concealed blades.

- Anything designed for causing death or serious injury.

375 MOTION: CHAIR SPRINGER: Moves to ADOPT HB 2737-1 amendments.

VOTE: Hearing no objections the amendments are ADOPTED.

HB 2250: Requires inclusion of potassium chloride or equally
effective
substance in lethal injection
to carry out death penalty.

390 TAYLOR: Gives overview of bill.

397 AL CHANDLER, DEPARTMENT OF CORRECTIONS: Submits and reviews
written
testimony in support of HB 2250. (EXHIBIT I)

CHAIR SPRINGER: Why do we need this bill?

407 JEF VAN VALKENBURGH, DOJ: Submits and reviews written testimony on
HB
2250. (EXHIBIT J)

- Most states use potassium chloride as part of lethal injection
process.

- We want to make sure DOC can use this substance.

TAPE 175, SIDE B

003 TAYLOR: Is this chemical less painful for the victim? What is
the
reason for using it?

VALKENBURGH: It is used to stop heart and circulatory functions.
Without it the brain ceases to function before the heart. It is deemed
more humane and permits DOC to declare death upon heart cessation.

013 CHAIR SPRINGER: I'm concerned about the other equally effective substances.

VALKENBURGH: The 8th amendment (Article 1, section 16) in the Oregon Constitution is sufficient to guard against governmental abuse.

033 SEN. HAMBY: Are we led to believe that no other substances are paralyzing agents?

VALKENBURGH: There are three currently used substances that paralyze; one is a barbiturate that brings unconsciousness and brain death.

052 SEN. SHOEMAKER: If this is a more humane way we should pass it.

053 MOTION: SEN. SHOEMAKER: Moves that HB 2250A be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote SEN. RASMUSSEN, SEN. HAMBY, SEN. SHOEMAKER, SEN. WEBBER, SEN. G. SMITH vote AYE. CHAIR SPRINGER votes NAY.

The motion is ADOPTED. SEN. SHOEMAKER will CARRY.

HB 2249: Authorizes Attorney General to release money judgment lien resulting from criminal sentence in certain cases.

066 RUTH J. THOMAS, DEPARTMENT OF JUSTICE: Submits and reviews written testimony in support of HB 2249. (EXHIBIT K)

083 MOTION: SEN. SHOEMAKER: Moves that HB 2249 be sent to the Floor with a DO PASS recommendation.

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

The motion is ADOPTED.

HB 2247: Allows court to grant continuance on its own motion for good cause.

098 JANET Klapstein, DOJ: Submits & reviews written testimony in support of HB 2247. (EXHIBIT L)

- Inmates are required to be brought to trial within 90 days or the case is dismissed.

137 ROSS SHEPARD, OCDLA: Testifies in opposition to HB 2247.

- You should not put the court in the position of doing the prosecutorial function.

155 K LAPSTEIN: I agree that there aren't a large number of cases affected, but problems do arise. The bill will affect cases in the future and authorize the trial court to exercise a certain degree of discretion when handling complex cases.

SB 2231: Adds term "parole" to that of "probation officer" for purposes of setting out duties and powers of parole officers.

184 SCOTT TAYLOR, DEPARTMENT OF CORRECTIONS: Submits and reviews written testimony in support of HB 2231. (EXHIBIT M)

203 JERRY JUSTICE, CLACKAMAS COUNTY: Testifies in support of HB 2231. -We suggest the deletion of subsection 3.

248 TAYLOR: We don't interpret that section as removing the responsibility of probation officers to pursue collection of money. It deals more with the actual handling of funds.

261 SEN. WEBBER: Does this extend the right of the parole officer to carry a gun?

TAYLOR: I'm not aware of any connection.

284 SEN. WEBBER: Is there other statutory authority for it?

JUSTICE: There is a bill on the House side that deals with firearms.

SB 2228: Modifies notice requirements regarding inmate release.

300 TAYLOR: Gives overview of HB 2228-A3 amendments. (EXHIBIT O)

306 AL CHANDLER, DOC: Submits and reviews written testimony in support of HB 2228. (EXHIBIT N)

CHAIR SPRINGER: How many people per month are released?

316 CHANDLER: About 500 per month.

CHAIR SPRINGER: What is the Fiscal Impact?

318 CHANDLER: Cost of an envelope and postage (36 cents per offender).

SEN. WEBBER: One problem of notification is that one gets tons of paper and it becomes meaningless. Notice should be automatic on predatory person offenses, persons convicted of A and B felonies and local law enforcement agencies.

352 BILL CROSS, CHIEFS OF POLICE: Testifies in support of HB 2228.
- We would like to be automatically informed of the releases.

378 SEN. HAMBY: How does the department feel about all convicted persons?

380 CHANDLER: The department announces release of all offenders to the
D.A.
regardless of crime.

SEN. WEBBER: I would like to see more people notified of the more
serious offenders and less notified of less serious offenders.

406 CHAIR SPRINGER adjourns hearing at 3:05 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal
Assistant

Karen Quigley
Bill Taylor
Administrator

EXHIBIT LOG

A - Proposed SB 1122-1 amendments-staff-1 pg.
B - Testimony on SB 1122-Paul Snider-6 pgs.
C - Testimony on SB 951-Junior Johnson-1 pg.
D - Proposed, machine engrossed and SB 462-1 amendments-staff-5 pgs.
E - Proposed SB 988-1 amendments-staff-1 pg.
F - Proposed SB 988-2 amendments-staff-1 pg.
G - Proposed amendments to SB 988-Bob Castagna-1 pg.
H - Proposed HB 2737-1 amendments-staff-1 pg.
I - Testimony on HB 2250-Al Chandler-1 pg.
J - Testimony on HB 2250-Jef Valkenburgh-1 pg.
K - Testimony on HB 2249-Ruth Thomas-2 pg.s
L - Testimony on HB 2247-Janet Klapstein-4 pgs.
M - Testimony on HB 2231-Scott Taylor-1 pg.
N - Testimony on HB 2228-Al Chandler-1 pg.
O - Proposed HB 2228-A3 amendments-staff-1 pg.