

SENATOR CATHERINE WEBBER
KAREN RITTER, JEFFERSON HIGH SCHOOL
ANGIE BURRELL AND JEREMY AREILLO, JEFFERSON H.S.
TERRY LEGGERT, DEPARTMENT OF JUSTICE

QUIGLEY: The HB 2386-3 amendments replace the bill (EXH. C).

089 SEN. CATHERINE WEBBER: Explains how the amendment addresses a situation which lead to the loss of travel funds by Jefferson High School students.
> Students lost about \$65,000.

132 KAREN RITTER, teacher at Jefferson High School: Testifies about the situation and supports the amendment.

179 ANGIE BURRELL, student at Jefferson High School: Explains how she worked to pay for the trip.

200 JEREMY AREILLO, student at Jefferson High School: Talks about his efforts to prepare for the trip.

SEN. WEBBER: The students have reviewed the legislation and followed its progress. They will still make the trip through increased fund raising efforts.

CHAIR SPRINGER: How many students were adversely affected?

RITTER: At Jefferson there were 19 students scheduled to go to Europe and 5 scheduled to go to Mexico. There are over 8,000 students involved in the U.S.

SEN. WEBBER: Explains how little can be done to recover the money.

246 TERRY LEGGERT, Department of Justice: Submits and reviews written testimony concerning the situation and supporting the amendment (EXH. D).

Work Session on HB 2386

SEN. WEBBER: Suggests removing Section 4 (2) (a-c).

QUIGLEY: Reviews reason for deletion of language on pages 8 and 9.
> Notes the conflict amendments for SB 167 which are contained in the HB 2386-3 amendment.

MOTION: CHAIR SPRINGER moves to delete the language on lines 22-31

on page 8 and lines 1-10 on page 9.
MOTION PASSES: There are no objections.

330 CHAIR SPRINGER: Does anyone who advertises in a magazine need to
be registered in Oregon?

SEN. WEBBER: It appears so, but that is not the intent. We are talking
about a travel, charter or tour operator selling their product here.
> Suggests deleting words "or advertise" on page 9.

MOTION: CHAIR SPRINGER moves to delete "or advertise" on page 9,
line 14.

MOTION PASSES: There are no objections.

MOTION: SEN. WEBBER moves to adopt the HB 2386-3 amendment as
amended.

MOTION PASSES: There are no objections.

MOTION: SEN. WEBBER moves HB 2386 as amended to the floor with a do
pass recommendation and to delete the Debtor/Creditor section of
the Oregon State Bar as a requester.

VOTE: In a roll call vote, the motion carries with all members
voting AYE.

Carrier: Sen. Webber

TAPE 217, SIDE A

Public Hearing on HB 3521

Modifies provision on lien on real property of judgment debtor.

WITNESSES: ALLEN BRICKLEY, Oregon Land Title Association
KEVIN HANWAY, Oregon Land Title Association

022 ALLEN BRICKLEY, Oregon Land Title Assoc.: The sole purpose of
the statute is to clarify that the judgement lien which survives the
bankruptcy does not apply to property purchased after the bankruptcy
is over.

058 KEVIN HANWAY, Oregon Land Title Assoc.: There is general agreement
that this makes the law better.
> Submits written testimony from Muhlhein Palmer Zennache & Wade
(EXHIBIT E).

SEN. SHOEMAKER: This presumes the judgment itself is discharged in
bankruptcy.

BRICKLEY: There are some judgments which are not discharged under
federal bankruptcy law such as child support, alimony or judgments

gained on fraud.

CHAIR SPRINGER: What is the problem the title industry is addressing in this bill?

BRICKLEY: We simply cannot meet the concerns our people who have filed for bankruptcy unless the law is clarified.

Work Session on HB 3521

101 MOTION: SEN. SHOEMAKER moves HB 3521A-Eng. to the floor with a do
pass recommendation.
VOTE: In a roll call vote, the motion carries with members voting
Aye.
Carrier: Sen. Shoemaker

Public Hearing on HB 3427

Authorizes agencies to have available one or more alternative means of dispute resolution for rulemaking proceedings, contested case proceedings and civil actions in which agency is party unless precluded by law.

WITNESSES: DICK BRIGGS, management consult
ALICE PHELAN, Dispute Resolution Commission
LUCINDA MOYANO, Department of Justice

119 DICK BRIGGS, management consultant: Submits and reviews written testimony in support of the bill which would help resolve disputes (EXH. F).

211 SEN. SHOEMAKER: Arbitration is an alternative to a court procedure but it may be prohibited by this language.

219 ALICE PHELAN, Dispute Resolution Commission: It may be appropriate to add arbitration as an amendment to this bill. The intent behind this bill is not to exclude arbitration for appropriate cases.
> Submits and reviews written testimony in support of the bill (EXH. G)
and provides a brief description of recent cases the Commission has been involved in (EXH. H).

262 LUCINDA MOYANO, Attorney General's office: The Attorney General supports the use of alternative dispute resolution in state agencies. This is a clarification of the current law which does not prevent state agencies from doing this now.

BRIGGS: Suggests adding arbitration on line 13.

CHAIR SPRINGER: Do you sense this may be an option for the Employment Division instead of having a traditional referee in a contested case hearing? Could this be used in a worker's compensation case?

BRIGGS: The use is almost unlimited. The process can be flexible and altered as it goes.

CHAIR SPRINGER: Is a mediation or arbitration proceeding open to the public?

MOYANO: If a mediation proceeding is handled by the agency and the members of the agency represent a quorum of the governing body, it would fall under the public meetings law. If it is less than a quorum, it would not fall within the public meeting requirements. It is similar to negotiation and mediation in many current situations.

327 CHAIR SPRINGER: Under your interpretation, would there be a need to notify the public if two members of LCDC are requested to mediate a rulemaking question?

MOYANO: The official rulemaking process does require public hearings. Each dispute would have to be reviewed individually to determine whether it is subject to the public meetings or public records law. There may be situations where it is not appropriate to mediate a case, such as a major issue which would affect the general public or an outrageous claim.

370 CHAIR SPRINGER: Since this amends Oregon's Administrative Procedures Act (APA), have you conferred with U of O Dean Dave Frohnmeyer, former State Attorney General?

MOYANO: I do not believe my office has conferred with Frohnmeyer. We believe the APA clearly allows for agencies to take part in collaborative settlement processes.

BRIGGS: This is modeled after the national Administrative Rule on dispute resolution.

397 CHAIR SPRINGER: Requests witnesses give more consideration to

the

public meeting/public notice issue and return to the committee.

> Notes he is mostly interested in the rule-making procedures and refers

to the constitutional provisions regarding open judicial proceedings.

MOYANO: An agency would have to consider the state's interest which is to publicly disclose information during a certain process such as licensing. When we are in trial, settlement negotiations are already confidential.

TAPE 216, SIDE B

Work Session on HB 2309

Establishes procedures for investigation, hearing and sanctions by Senior and Disabled Services Division or area agency on aging for abuse of resident of long term care facilities.

035 QUIGLEY: Talks about the HB 2309-A8 amendment proposed by Sen. Shoemaker (EXHIBIT I).

050 CINDY HANNON, Division of Senior & Disabled Services: Explains how the Administrative Review Process would provide a fair due process for an aide charged with abuse.

SEN. SHOEMAKER: How would that process be established?

HANNON: If the bill passes, we will form an advisory work group and establish administrative rules. We would also create a list of knowledgeable and impartial persons who we could call if we need this process.

102 CHAIR SPRINGER: Why are you deleting the cross-references to ORS 441.705 on lines 13 and 14 which are not repeated in the printed bill?

HANNON: From lines 16 on we have included additional criteria which is meant to include the general statement in lines 12 and 13. The staff-to-patient ratio has been eliminated because the Division does not find neglect or abuse if there are positive outcomes. However, there may be a rule violation.

CHAIR SPRINGER: The language on lines 18-20 is unclear.

130 PENNY DAVIS, Multnomah County Legal Aid representing Oregon

Citizens

Coalition for Better Nursing Home Care and a member of the workgroup:
The language you are questioning was added by the House Judiciary
Committee by Rep. Fisher. He felt consensual contact between residents
and employees should not be tolerated.

152 SEN. KARSTEN RASMUSSEN: Reviews language on line 23
concerning
derogatory names and the potential result of emotional injury and
feels
it is too vague and unenforceable.

HANNON: The intent of this section is to assure that the Division has
access to do an investigation and, based upon a finding of fact,
determine if the situation did occur.

SEN. RASMUSSEN: This language defines abuse and it is not
discretionary.

CHAIR SPRINGER: Under the procedure in Section 10, a staff member who
calls a resident a derogatory name could be barred from ever working
again in a licensed facility. Is that how this would work?

HANNON: Actually, we would never do that. The Division's intent is
only for the most grievous of abuse violations.

264 SALLY GOODWIN, director of Oregon Assoc. of Homes for the Aging: We
are
really trying to clarify federal rule which prohibits verbal abuse.
> Suggests striking Section 10 and restore the federal verbal abuse
language.

SEN. WEBBER: Suggests keeping federal law in the rule area rather than
statute because the federal law is likely to change.

CHAIR SPRINGER: Suggests resolving the questions and carrying the bill
over to another work session.

Work Session on SB 662:

338 MOTION: Sen. Shoemaker moves to adopt the SB 662-1 amendments
(see

EXH. B).

AMENDMENTS ADOPTED: There are no objections.

MOTION: Sen. Shoemaker moves SB 662 as amended to the floor with a
do
pass recommendation.

VOTE: In a roll call vote, the motion carries with all members

voting AYE.

Carrier: Possibly Sen. Bunn

Possible Reconsideration on HB 3071

Expands prohibition against possessing firearms by felon, person under 18 years of age or person who was committed.

MOTION: Chair Springer moves to reconsider HB 3071.

MOTION PASSES: There are no objections.

371 BILL TAYLOR, Committee Counsel: Reviews provisions of the HB 307 1-12

amendment (EXH. J) and the HB 3071-A9 amendment (EXH. K).

SEN. HAMBY: Provides and reviews information from a list of concealed weapon permits by county (EXH. L).

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056 CHAIR SPRINGER: Some of this data suggests there is a discrepancy between the information the county is reporting and the information the State Police has.

LEE ERICKSON, Oregon State Police: Not everyone who files an applicant card follows through the process and actually becomes licensed by the Sheriff. We have more applicants listed than actual licensees.
> With this legislation, Oregon State Police would be able to report information to the Legislature on the number of permits issued and the number of revocations.

091 JOHN NICHOLS, Oregon State Shooting Assoc.: Has no objections to the -A12 amendments.

SEN. HAMBY: Reviews the -A9 amendment (see EXH. K) which narrows the scope of the bill and dropping all dangerous weapon references.
> Lines 5-10 on page 2 of the bill is an amendment requested by Speaker Campbell which would allow a person, during the hunting season, to have an unloaded hunting rifle in a locked vehicle parked in a school parking lot to use for hunting following the school day.
> Suggests deleting lines 22-27 and amending lines 28-39.

145 REP. KEN BAKER: If this amendment is put back into this bill, there would be a nonconcurrence in the House and it will kill a very good bill? If we are going to eliminate guns in courthouses, they should be

eliminated from schools.

CHAIR SPRINGER: There may be other bills in this committee that this language can be amended into.

SEN. WEBBER: Feels the issue is very important and the bill is worth taking a chance.

NICHOLS: Supports HB 3071 as it was originally passed and is concerned about any further amendments. Suggests raising the penalty for unlawful possession of a firearm in a public building which would include both courts and schools.

236 SEN. RASMUSSEN: Prefers seeing HB 3071 go unencumbered with the amendment and look for other vehicles.

MOTION WITHDRAWN: Sen. Hamby moves to withdraw the motion to adopt the -A9 amendments and requests Counsel to find another vehicle.

SEN. WEBBER: Prefers leaving the amendment in the bill because it is too late to start the process with another bill.

SEN. SMITH: Hates to see a good bill everyone wants go down because of another issue.

SEN. HAMBY: The -A9 amendments addresses a public safety issue.
> Further discussion concerning the -A9 amendment and HB 3071.

MOTION: Sen. Hamby moves to adopt the -A12 amendment concerning the reporting requirement to sheriffs on the number of revoked concealed handgun licenses.

MOTION ADOPTED: There are no objections.

MOTION: Sen. Springer moves HB 3071 as amended to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion carries with all members voting AYE.
Carrier: Sen. Hamby

Work Session on HB 2759

HB 2759: Requires parole and probation office supervising certain sex offenders to notify community within 21 days of offender's release or change of residence in community.

322 TAYLOR: Refers to the HB 2759-A15 amendment (EXHIBIT M).

REP. PETER COURTNEY: List the members' concerns which are addressed by the amendments.

CHAIR SPRINGER: Juvenile offenders are out of the bill and discretion has been included. Limiting offenses is addressed in Section 1 and notice of address is included in the amendment. Who makes the determination is in Section 2.

370 DANNY SANTOS, vice-chair, BOARD OF PAROLE: Talks about the Board's responsibility in the process of making determinations.

COURTNEY: The reference to 50 sex offenders per month in the bill does not mean there will be 1200 notifications.

SANTOS: The actual number targeted for notification would be smaller.

436 JOANNE FULLER, DEPARTMENT OF CORRECTIONS: The Department would formulate administrative rules concerning the notification process.
> The Department supports the change in the amendment that eliminates the section in the bill creating immunity to liability for the notifying agencies.
> Understood attempted crimes were to be included in the amendments.

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031 SEN. WEBBER: Suggests restoring the attempted crime language.

SEN. SHOEMAKER: I thought we were going to have the sentencing judge make the decision for persons on probation.

SEN. WEBBER: Explains she is comfortable with the way the amendment is drafted.

SANTOS: A great deal of the information the Board will have to rely on when making a decision are what local resources are available.

SEN. SHOEMAKER: Troubled by removal of the liability provisions.

CHAIR SPRINGER: Frank Hall, Department of Corrections, has indicated he has no trouble accepting responsible for negligent acts on behalf of the Department.

SEN. RASMUSSEN: Why would we want to treat these state employees any differently? We want all our state employes to be responsible for what

they do within the responsibility created by law.

MOTION: Sen. Webber moves to amend Section 1 to include conviction
for attempt of the crimes listed.

MOTION ADOPTED: There are no objections.

MOTION: Chair Springer moves the -A-15 amendments as amended.

Written testimony concerning HB 2759 is submitted by Oregon
Psychiatric
Security Review Board (EXH. N).

098 DAVID FIDANQUE, ACLU: Suggests clarify language on lines 25-26 on
page
2 by inserting a comma after the word "information" and changing
"that"
to "which".

TAYLOR: Explains why Legislative Counsel is attempting to make the
language in (1) and (2) different. It is a policy distinction.

SEN. RASMUSSEN: We may want to encourage the law enforcement agency to
think more about whether the address is necessary but then still allow
it to be accessible under Section 3(2).

MOTION ADOPTED: There are no objections.

MOTION: Sen. Hamby moves to adopt the -A8 amendments which speaks
to
the medical model of treatment for sex offenders.

MOTION ADOPTED: There are no objections.

MOTION: Sen. Springer moves the -A15 amendments as amended.

MOTION ADOPTED: There are no objections.

MOTION: Sen. Springer moves HB 2759 as amended to the floor with a
do pass recommendation.

VOTE: In a roll call vote, the motion carries with all members
voting AYE.

Carrier: Sen. Webber

Work Session on HB 2286

Provides that obligee is party to any action to establish, enforce or
modify
child support obligations.

181 SEN. RASMUSSEN: The House Judiciary committee chair has no objection
to
putting SB 1107 in this bill. SB 1107 is in the House Commerce
Committee.

Further discussion concerning possible amendments for the bill.

MOTION: Sen. Rasmussen moves to amend HB 2286A to include SB 1107.

MOTION ADOPTED: There are no objections.

236 SEN. WEBBER: Talks about a bill in the House Education
Committee
concerning funding of the Hillcrest and MacLaren training schools.

CHAIR SPRINGER: Concerned about moving to far afield from the
jurisdiction of the Judiciary Committee.

SEN. RASMUSSEN: Talks about SB 1107 which he feels is a minor bill.

MOTION: Sen. Springer moves HB 2286A as amended to the floor with a
do pass recommendation.

VOTE: In a roll call vote, the motion carries with all members
voting AYE.

Carrier: Sen. Rasmussen.

324 Discussion concerning concealed weapons in courtrooms.

340 CHAIR SPRINGER: Adjourns meeting at 3:30 p.m.;

Transcribed by and reviewed by:

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EXHIBIT LOG:

A - Testimony on SB 662 - Lincoln County Legal Counsel - 4 pages
B - SB 662-1 amendment - Lincoln County Legal Counsel - 2 pages
C - SB 2386-3 amendment - Sen. Webber - 15 pages
D - Testimony on HB 2386 - Department of Justice - 4 pages
E - Testimony on HB 3521 - Charles Zennache - 1 page
F - Testimony on HB 3427A - Dick Briggs - 1 page
G - Testimony on HB 3427A - Dispute Resolution Commission - 1 page
H - Testimony on HB 3427A - Dispute Resolution Commission - 2 pages
I - HB 2309-A8 amendment - Sen. Shoemaker - 1 page
J - HB 3071-A12 amendment - Committee staff - 1 page
K - HB 3071-A9 amendment - Committee staff - 4 pages
L - Testimony on HB 3071A - Sen. Hamby - 4 pages
M - HB 2759-A15 amendment - Committee staff - 3 pages
N - Testimony on HB 2759 - Oregon Psychiatric Security Review Board - 1
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