

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.

HOUSE COMMITTEE ON JUDICIARY CIVIL LAW AND JUDICIAL ADMINISTRATION

April 22, 1991Hearing Room 357 1:00 p.m.Tapes 79 - 81

MEMBERS PRESENT:Rep. Ray Baum, Chair Rep. Marie Bell Rep. Tom Brian  
Rep. Kelly Clark Rep. Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix  
Rep. Randy Miller

STAFF PRESENT: Jim Dole, Committee Counsel Jeff Steve,  
Committee Assistant

MEASURES HEARD:SB 61 - DEFINES CERTAIN PEER REVIEW ORGANIZATION RECORDS  
AS PRIVILEGED "DATA". PUBLIC HEARING.

HB 2312 - AUTHORIZES MOTOR VEHICLES DIVISION TO PETITION COURT TO ENJOIN  
PERSON FROM ACTING AS VEHICLE DEALER IN VIOLATION OF OREGON VEHICLE  
CODE. PUBLIC HEARING AND WORK SESSION.

HB 3156 - ALLOWS SERVICE OF SUMMONS TO BE MADE AT BUSINESS OFFICE IF  
PERSON TO BE SERVED IS EMPLOYEE OF EMPLOYER WHO MAINTAINS AN OFFICE FOR  
CONDUCT OF BUSINESS. PUBLIC HEARING.

HB 3157 - MODIFIES SERVICE FEE FOR WRIT OF GARNISHMENT. PUBLIC HEARING  
AND WORK SESSION.

HB 2381 - ADOPTS MODEL LAW KNOWN AS THE OREGON INTERNATIONAL COMMERCIAL  
ARBITRATION AND CONCILIATION ACT. WORK SESSION.

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TAPE 79, SIDE A

004 CHAIR BAUM: Opens Subcommittee on Civil Law and Judicial  
Administration at 1:00 p.m.

PUBLIC HEARING - SB 61 Witnesses:Art Keil, Oregon Health Division Tim  
Neff, Oregon Newspaper Publishers Assn.

010 ART KEIL, OREGON HEALTH DIVISION: The Health Division is

responsible for the State Trauma Program. The Division subcontracts with a trauma review team that inspects hospitals and determines the level of trauma care that they can pursue under rigid guidelines. The information collected by this team, which is made up of health professionals, is not confidential once it goes into the trauma report. The Attorney General's Office has advised the Division they need to change the statutes to include confidentiality statutes for this material that is derived from the hospital. The Division asks that this information be drafted into an L.C. draft and go into SB 61.

033 DOLE: Just received Mr. Keil's proposed amendments and hasn't had chance to study them.

036 CHAIR BAUM: The Senate vote was 27 to 1.

038 DOLE: SB 61 is before the subcommittee today to correct an error that was made by Counsel in correcting another error in this bill that he discovered existed when the bill was passed from the Senate.

046 CHAIR BAUM: We have a Legislative summary that states we voted for this bill.

047 DOLE: Correct. The bill needs to be cleaned up.

050 REP. BELL: To Mr. Keil, when this was referred back thought it was to correct the error on line 10. The part Keil is bringing is a recommendation from the Attorney General's office?

054 Keil: Yes. Really didn't have anything to do with the original intent of SB 61, but would include the provisions that would be quality assurance activities.

062 TIM NEFF, JOHN GERVAIS AND ASSOCIATES REPRESENTING OREGON NEWSPAPER PUBLISHER'S ASSOCIATION: They would like time to go over the provisions to see if they close up any public records.

068 CHAIR BAUM: Agreed to reschedule.

HB 2312 -PUBLIC HEARING

Witnesses:Wanda Wahus, Oregon Independent Auto Dealers Ron Terry, Oregon Independent Auto Dealers Don Miner, Oregon Manufactured Home Assn. Dennis Koho, D.M.V.

075 JIM DOLE: Summarizes HB 2312. Refers to amendments EXHIBIT A.

097 REP. BELL: Asked Counsel to follow the trail of that bill so she could understand why it would go to Ways and Means and back to this Committee.

100 DOLE: There was some discussion on the Floor as to the resources available to the Motor Vehicle Division for investigation and enforcement. It was felt that a look by Ways and Means was necessary.

105 REP. BELL: Does that mean they approved or disapproved?

106 DOLE: They did not make a recommendation at this point.

107 REP. BELL: Does it have to go back to them after we make a decision?

108 CHAIR BAUM: Yes.

110 REP. BELL: Didn't the original committee pass it?

111 DOLE: Yes. Was passed from Business and Consumer Affairs unanimously.

130 Wanda Wahus, Oregon Independent Auto Dealers: Testified in favor of HB 2312. This bill was introduced in an attempt to attempt to enforce a current law without burdening the court system. It was designed by Oregon Independent Auto Dealers, Department of Motor Vehicles, Manufactured Housing Association and the Justice Department. Sections 2 and 3 allow D.M.V. to levy fines up to \$5,000. on a person acting as a vehicle dealer who is not properly licensed by D.M.V. The degree of fine would be established by D.M.V. rule depending on the history of the offender. In severe cases, the D.M.V. could petition the court for a Cease and Desist Order and a fine of up to \$15,000. HB 2312 also allows D.M.V. to levy a \$1,000. fine against a licensed dealer who is acting illegally. The hearing process is made available through section 4. Section 6 provides for collection of civil penalties and section 8 is the funding process, which is an additional \$14.00 on the current \$96.00 State Dealer licensing fee. It was the opinion of the Justice Department that exemptions for private party vehicles could more easily be determined if the person was required to prove that the vehicles were used for personal or household use. Section 9 also exempts vehicles used in the person's business operation. Section 10 was added to give the D.M.V. Statutory Advisory Committee a look at the fine against a licensed dealer. (Played a VCR for the committee regarding this issue).

236 Ron Terry, Oregon Independent Auto Dealers: Spoke in favor of HB 2312. Presented and paraphrased written testimony. EXHIBIT B.

321 REP. MANNIX: Is there anyone who is going to testify in opposition to this bill?

328 Wahus: There is no opposition. The bill is supported by every industry group that is involved with the automobile business and Attorney General's Office. EXHIBIT C.

331 REP. MANNIX: Are the hand engrossed amendments agreeable?

333 Wahus: Yes.

HB 2312 - WORK SESSION

345 MOTION, REP. MANNIX: Move the Legislative Counsel prepare proposed amendments to A Engrossed HB 2312. Hand engrossed amendments with the handwriting on the bottom.

VOTE: No objection. Motion passes.

352 MOTION, REP. MANNIX: Move HB 2312 as amended to the Full Committee with a Do Pass recommendation to send to the Floor since Ways and Means has worked it up.

VOTE: Motion passes. Rep. Brian to carry.

AYE: 6 NO: 0 EXCUSED: 2

HB 3156 - PUBLIC HEARING Witnesses:Ron Smith, Process Servers Fred Merrill, Council on Court Procedures Jim Markee, Oregon Collectors

378 JIM DOLE: Summarizes HB 3156.

394 Ron Smith, Process Servers: Spoke in favor of HB 3156. This measure expands the O.R.C.P. to allow office service of a summons to an employee where an employer maintains an office for the conduct of business. The change will expedite the service of process, save everyone time and money, will not disrupt business by taking employees off the job and reduces potential danger to the defendant by not serving him personally during working hours. Has been authorized to speak for Mr. Jim Markee and the Oregon Collectors Association on behalf of this measure.

419 REP. BRIAN: Could you review who gets served now?

424 Smith: Currently several methods of serving process. One is by personal service. One is by substitute service at a residence to an occupant of that residence over the age of 14. Office service is serving the person apparently in charge if a person owns the business and operates an office for the conduct of that business by posting or by registered mail. This measure would allow a process server to serve summons upon a person who works in a department store, for instance, by going to the personnel office and serving someone in charge, following that with a mailing.

450 REP. BRIAN: When you serve at the residence, there is a presumption that they are going to get it within a certain period of time. Are there any safeguards written into the situation where it is served at a large company? What happens if the ball gets dropped in that office somewhere?

462 Smith: The safeguard is in the mailing by sending a true copy of the complaint to the defendant at that address. The service is not perfected until such time that mailing is made.

TAPE 80, SIDE A

023 REP. BRIAN: The service at one's place of employment is not in person.

026 Smith: No. Initially the service would be made to a person in charge of personnel or the manager or owner of the business. Subsequently there would be a mailing to the person at that address to perfect service.

035 REP. EDMUNSON: You could serve either the employee at the place of work personally if they were available or the personnel manager?

040 Smith: That's correct.

042 REP. EDMUNSON: This would allow handling it through the personnel office?

043 Smith: Yes. Same as a Writ of Garnishment.

045 REP. EDMUNSON: The Writ of Garnishment involves the personnel office where this would not. Presently if you serve an employee at

work, you hand it to them and no one else knows about it.

050 Smith: That's correct.

051 REP. EDMUNSON: Aren't you a little concerned that if a complaint alleges some sort of sensational or embarrassing situation, the personnel office might form an opinion of their employee based upon the allegations in the complaint?

056 Smith: No. Those types of documents must be personally served under all circumstances. They could not be served by leaving them with the director of personnel.

061 REP. EDMUNSON: What sort of legal actions could be served upon a personnel director?

063 Smith: There will be two types served. One will be a summons and complaint and the other a small claims.

066 REP. EDMUNSON: I gave you a list of things: assault, theft, paternity, divorce and others, and you said those could not be served upon a personnel director.

069 Smith: That's correct.

070 REP. EDMUNSON: Tell me the ones that can.

071 Smith: Standard summons, complaint and small claims.

072 REP. EDMUNSON: Summons and complaint for anything other than those types?

072 Smith: Correct. Anytime there is an order or petition attached, it must be served personally.

078 Ted Bray: A summons and complaint could have an assault within it. The person could be civilly serving a subject on assault charge.

082 REP. EDMUNSON: Was talking about civil action.

091 Smith: Where there is a requirement to serve a summons and petition in the case of paternity or divorce, that must be served to that individual personally. There are no provisions for substitute service or office service.

097 CHAIR BAUM: Suspended public hearing on HB 3156 and went back to HB 231 2. Asked to suspend the rules and bring that bill back to change a 3 to a 5.

HB 2312 - WORK SESSION

104 REP. BRIAN: Has been advised by representatives present who testified that there was one item that was not in the amendments that were distributed. Regarding page 3, line 1, the word "three", there was discussion whether this should be five or six. There is a consensus at the Attorney General's office, Motor Vehicles and the lobby members present that five vehicles would be most appropriate.

113 REP. MANNIX: Chose not to change it from three to five in his motion. Understands the F.T.C. says that if it is over five, there is a

special windshield notice. If other people think it ought to be more vehicles, he has no objection.

133 CHAIR BAUM: Asked for any objections for suspending the rules to bring it back. Hearing none, so ordered.

139 MOTION, REP. MANNIX: Move to change from "three" to "five".

141 CHAIR BAUM: Asked for objections. Hearing none, so ordered and adopted.

142 MOTION, REP. MANNIX: Moves HB 2412 as amended with that additional amendment to the Full Committee with a do pass recommendation.

143 VOTE: Motion passed.

AYE: 8 NO: 0 EXCUSED: 0

HB 3156 - PUBLIC HEARING - RECONVENED

154 REP. EDMUNSON: Wants to be satisfied that the types of civil actions are not of a nature that might embarrass an employee in the eyes of his employer.

175 Smith: Civil actions can be served at the office.

177 REP. EDMUNSON: Are there any civil actions that cannot be served by office service?

178 Smith: Yes. Summons and petition in paternity, divorce, orders to show cause, judgement debtor orders.

185 REP. EDMUNSON: Could a personal injury action be served?

186 Smith: Yes. Associated Oregon Industries has no objections to this measure.

193 REP. BRIAN: Will there be one or two efforts at residential locations prior to business or will the business site become the place of preference?

202 Smith: The place of preference would be a residential address. Under this bill, only the party who worked at that particular location could be served.

213 REP. BRIAN: Is there any requirement in the bill that an actual effort to serve them at home has to be done before the service at work?

217 Smith: No.

221 REP. MANNIX: Assumes there is a separate consideration in domestic relations actions.

231 Smith: The statute doesn't address methods of service other than summons and complaints and small claims as far as substitute service. Actions that fall under Rule 55 have to be served personally.

241 REP. MANNIX: The point of a summons is to let people know they must respond to a complaint. In the case of Marion County, anything filed in court is put in the local newspaper. What do other counties do?

248 Smith: In the tri-county area, it is published in the paper.

260 REP. BELL: In Oregon, have summons been allowed to be delivered to a third party at the work place?

263 Smith: You can, at this time, make office service on a person who maintains an office for the conduct of business by serving a person in charge at that location.

269 REP. BELL: How would this bill fit in other states?

272 Smith: California allows service at the place of employment. Washington has introduced a bill.

277 REP. BELL: Is there any support for this bill among employee groups?

286 Smith: Their company policy is to attempt to contact the person to avoid embarrassment.

298 REP. CLARK: Can someone be served at work by having the secretary call them out in front at the request of a process server?

311 Smith: Absolutely.

312 REP. CLARK: Problem is sometimes the companies won't do that for the server.

315 Smith: That does present a problem. Some companies don't want to allow service because they don't to call people in off the job. In 75 per cent of the cases, they are able to serve process on the job. The real problem is when they go to a location and the person works swing shift or graveyard.

331 REP. CLARK: How do we make sure this kind of service doesn't become the "7-11" of process serving?

343 Smith: Couldn't make a promise that all process servers will go to the place of employment as an alternative to an address.

357 REP. CLARK: All this bill would allow is that an employee be served in the same way as a principal in the place of business is served.

360 REP. MANNIX: This means the summons could be served at business offices and the office must somehow get the document to that employee. Concerned that this is a problem.

373 Smith: Those instances have been addressed. They feel the intent of the measure should be to serve where that person works.

386 REP. MANNIX: Council on Court Procedures has asked the committee to defer action on this while they have a chance to work up a comprehensive approach. What is your reaction to the idea?

392 Smith: Would like to confer with lobbyists.

414 CHAIR BAUM: Was under the impression that if a person were dodging service, substitute service could be used in any case.

418 Frederick Merrill, Executive Director, Council on Court Procedures: The way Rule 7 is set up and has been interpreted by the Supreme Court, the standard of adequate service and summons is set out in ORCP 7 D1. It is service by a means reasonably calculated to notify the defendant of the existence and pendency of the action and giving them the opportunity to defend. The rule then provides a series of prima facie ways of serving. There are two forms of substituted service provided. Abode service - substituted service by leaving with a person over the age of 14 years at a person's dwelling house or place of abode. Or leaving at an office maintained by a person with the person apparently in charge there. The latter provision was developed by the Council on Court Procedures when they promulgated the ORCP in 1979. There was no intent to make office service available for anyone working in that office, mainly because of the reliability. HB 315 6, as drafted, would allow service upon an employee by leaving at any office, even if the person isn't there. The Council is taking the position that it needs time to review this.

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055 REP. CLARK: Personally agrees with that. This bill, as drafted, provides a method of service at least as reasonably well calculated to give someone notice as some of the methods currently done, such as publishing in the newspaper.

061 Merrill: The way the rule is set up, it does not make publication prima facie. A court order has to be obtained. In the event judgment is taken on the notice process, the defendant in the action can file and have that judgement set aside if it is determined they did not receive notice.

077 REP. EDMUNSON: Are there civil actions which must be served personally? Or where substitute service is not allowed?

083 Merrill: Not aware of any, but the rules apply to all civil actions to the extent there isn't statute or rule to the contrary. Has never seen a statute requiring personal service.

095 REP. MANNIX: The concept, with some refinement, may go somewhere, but right now he would like to see the Council on Court Procedures address the issue and refine the approach.

104 Jim Markee, Oregon Collectors Association: Oregon Collectors Association has a position to support HB 3156. Would like this kind of alternative available. They feel the idea is a sound one and would like to see work on refinement.

115 CHAIR BAUM: Get together with the right parties and revamp and possibly it can be brought back. If the situation doesn't change, it is not the intent of the Chair to bring it back for further hearing.

HB 3157 - PUBLIC HEARING Witnesses: Ron Smith, Process Servers Bob Keyser, Oregon Process Servers

123 JIM DOLE: Summarizes HB 3157.

145 Bob Keyser, Oregon Process Servers: The purpose of HB 3157 is to keep the ever increasing numbers of population in line and does nothing to change the fees. The -1 amendments which lower the number from 600,000 to 550,000 were introduced before they realized the population

in Multnomah County is about 583,000. If it had stayed at 600,000, it would have increased the fee in Multnomah County to \$12.50 which was not their intention.

160 CHAIR BAUM: What is the intent?

160 Keyser: To keep the fees the same.

162 CHAIR BAUM: The committee does not have amendments.

167 REP. EDMUNSON: Is 400,000 the present population cut off?

169 Keyser: Yes.

170 REP. EDMUNSON: In a county with less than 400,000, which is every county except Multnomah County, the fee is \$12.50?

172 Keyser: Correct.

174 REP. EDMUNSON: But in Multnomah County it is \$9.50?

175 Keyser: Correct.

174 REP. EDMUNSON: If you change it to 550,000 population it will include Multnomah County.

178 Keyser: No. 600,000 will pick up Multnomah County. This will keep Multnomah County at \$9.50.

183 Ron Smith, Process Servers: The county that is nearing that population number is Washington County. They want to keep the \$12.50 fee in Washington County.

189 REP. BELL: What is the rationale for the difference?

190 Keyser: Had to do with a process server in Portland who could deliver many garnishments at one time. Many of the headquarters for business and banks are in Multnomah County, where in other counties they are spread out.

204 REP. BELL: They also serve to homes don't they?

205 Keyser: Not Writs of Garnishment.

206 REP. BELL: This fee goes directly to the person who serves the papers?

208 Keyser: That's correct.

211 REP. MANNIX: Multnomah County is the capital of commerce in this state.

226 REP. EDMUNSON: Asked witness opinion of having all fees \$12.50 in the state.

229 Smith: Doesn't feel it is possible.

238 Jim Markee, Oregon Collectors Assn: The Oregon Collectors Assn. does support HB 3157 with the amendment taking the figure to 550,000.

The committee might want to remember that the debtor does pay this as it is added to the debtor's judgment amount.

262 REP. EDMUNSON: Why should his constituents pay \$12.50 when someone in Multnomah County pays \$9.50. His constituents feel they should be treated the same as someone in Portland.

266 Markee: The fee is lower in a center of commerce.

277 REP. BELL: How did the fees get set in the first place?

281 Smith: They were set ten years ago.

HB 3157 - WORK SESSION Witnesses: Jim Markee, Oregon Collectors Assn. Ron Smith, Process Servers

300 MOTION, REP. MANNIX: Move the dash 1 amendments.

301 CHAIR BAUM: Asked for objections. Hearing none, so adopted.

304 MOTION, REP. MANNIX: Move the bill as amended to the Full Committee with a do pass recommendation. EXHIBIT D.

309 MOTION, REP. EDMUNSON: Move to amend Rep. Mannix's motion to amend the bill to read "the fee for delivery of a writ of garnishment under this subsection shall be no more than \$12.50." without regard to county population.

319 REP. MANNIX: Feels there has been a reason given for the fee break. Recognizes there are efficiencies in handling things in the corporate offices that are located in Multnomah County. If, at some point, there was enough urbanization of other areas of the state to recognize other areas of commerce, he would go along with it. Washington County doesn't meet his definition of an urbanized area.

335 REP. BELL: What social policy are we making? If there is a place to earn money that is easier than somewhere else, we lower the fee?

343 REP. MANNIX: Because it is tied into court process, there are fees set by legislation. These fees should be proportionate to the costs and efficiencies.

353 REP. BELL: We don't know what it costs to do business in Portland.

360 REP. MANNIX: If we were setting the price differently or changing the status quo, would want to have hearings. This bill recognizes the 1990 census results and leaves the status quo.

377 REP. MILLER: Regarding the second amendment, feels they are setting the maximum, but not eliminating the idea that if someone can do it for less, that is perhaps the desired goal. Is that an accurate reading of your amendment?

397 REP. EDMUNSON: Yes. His amendment would create that opportunity regardless of location in the State of Oregon. It would create one rule for the state that no more than \$12.50 be charged.

401 REP. MILLER: Asked of Mr. Smith, in Multnomah County would you escalate to \$12.50 and if one operator did, would you expect some competitor would continue to offer the service for \$9.50? What would

happen if we went to \$12.50 everywhere?

406 Smith: A person must have \$100,000. errors and omissions coverage in the State of Oregon on file with the Secretary of State before authorized to serve writs of garnishment. There are approximately one-half of the process servers in the State who do not have errors and omissions and still serve writs of garnishments and they serve for reduced fee in many locations. They do not have to buy the errors and omissions coverage. The \$9.50 fee in Multnomah County is adequate as they can serve four or five writs of garnishment on a bank at one time. They are attempting to tie up the loopholes to keep people out of the process serving business that don't provide the proper amount of insurance coverage.

480 REP. MILLER: If the ceiling was moved from \$9.50 to \$12.50, would he be inclined to stay at the lower fee?

TAPE 80, SIDE B

023 Smith: In Multnomah County, they would stay at the \$9.50, except for new clients who would be charged the \$12.50.

037 Jim Markee, Oregon Collectors Association: When there is a volume business, the fees may be negotiated lower. The maximum being in the statute is to the benefit of the debtor. Does believe \$9.50 is adequate in Multnomah County and would not want to see the maximum raised.

054 CHAIR BAUM: If the garnishment is unsuccessful, who pays?

055 Markee: The plaintiff. It is added to the debtor's bill.

076 CHAIR BAUM: There is an amendment to Rep. Mannix's amendment and Rep. Mannix objects to that amendment. Asked for other objections to the amendment.

149 REP. BELL: The amendment says "shall be no more than", so they still have the option.

153 REP. MANNIX: Restated, this is a status quo bill. Unless the population figure is changed subsequent to the census, another county breaks into the \$9.50 limitation. Doesn't think they have enough information to change what has been longstanding practice.

177 VOTE: Motion passed.

AYE: 5 NO: 1 EXCUSED: 2

182 REP. MANNIX: His motion is still before them which has been amended by Rep. Edmunson.

186 CHAIR BAUM: Move the HB 3157 -1 amendments.

191 REP. MANNIX: The reality is that Rep. Edmunson's amendment has negated the -1 amendments and has changed the bill to simply say that the fee for delivery of a writ of garnishment under the subsection shall be no more than \$12.50. Original motion for amendment was adopted. But before action was taken to vote on the bill with the amendment, Rep. Edmunson moved to amend the motion to change it.

207 REP. EDMUNSON: If Rep. Mannix would withdraw his motion, I would

move HB 3157, as amended, to the Committee with a do pass recommendation.

209 REP. MANNIX: I will withdraw my motion.

211 CHAIR BAUM: Concerned with procedure.

217 REP. MANNIX: My amendment was adopted without objection. Then I moved the bill. My motion was pending and during discussion on my motion, Rep. Edmunson amended my motion to get us down to the \$12.50 clean break. That motion is now pending before the committee. Could simply vote on the motion. If it passes, have limited it to \$12.50 period, no population figure.

223 CHAIR BAUM: Asked for a roll call vote on HB 3157 as amended.

VOTE: Motion passed. Rep. Edmunson to carry.

AYE: 5 NO: 1 EXCUSED: 2

HB 2381 - WORK SESSION Witnesses: Carl Myers, Oregon State Bar Jerry Barton, International Law Section

234 JIM DOLE: Summarizes HB 2381.

261 CHAIR BAUM: The amendment is four pages.

261 DOLE: That's correct.

263 CHAIR BAUM: Where were the witnesses previously?

265 DOLE: The Committee passed this bill with minimal discussion and did not discuss every provision of the bill which is lengthy. The State Court Administrator provided the committee with some correspondence at the initial public hearing indicating some concerns about adding something to the bill. This bill retains the deletion the committee made. Have deleted Section 56 and added something in its place to accommodate concerns of the Oregon State Bar that have arisen.

284 REP. EDMUNSON: Does the new Section 56 replace Section 44 in the printed bill?

287 DOLE: Is deleting Section 44 from the bill. On page 2 of the proposed amendments, line 23. Summarized the amendments.

369 CARL MYERS, OREGON STATE BAR: Bar had problems with Section 44. Was their understanding that at the public hearing that section would be removed, however, it did not get removed. They are asking that the amendment be adopted. Bill is worthwhile bill. Have concerns about language proposed today.

412 REP. JOHNSON: Summary says this adopts model law. Isn't this a model law generated by some national group?

416 JERRY BARTON, INTERNATIONAL LAW SECTION: Does not feel a policy decision should be made right now on what is the practice of the law in regard to conciliation or arbitration. But they want the bill and whatever it takes to get it, they are in favor of. Model laws become unmodeled by adapting to each state's particular circumstances.

436 REP. JOHNSON: Why didn't you give us a bill that is ready to be passed as is?

441 BARTON: Thought they had a consensus.

443 REP. JOHNSON: Part of the reason this sped through the process so fast is because it was proposed by the Bar and was a model law.

TAPE 80, SIDE A

015 BARTON: Felt that to eliminate Section 56, which was the controversial one, would leave everything status quo. However, the Chief Justice and Oregon State Bar were afraid that it may imply it is wide open for non-lawyers. Explained that a portion of the amendments had to do with fees.

031 CHAIR BAUM: His understanding is they would like them to move it without Section 56 as amended.

037 BARTON: That's correct. The rest of the sections can remain as amended.

038 CHAIR BAUM: You would like us to amend the amendment to strike out Section 56 and you will deal with this in the Senate?

039 BARTON: If there is any need to.

042 REP. MILLER: If there are going to be amendments made later in the process, he feels they should do the best possible job they can do on the bill and not expect that it would be changed.

050 CHAIR BAUM: Don't want to send bills to the Senate with question marks.

056 REP. MILLER: As of a week ago, this committee had done more than twice the amount of work of their counterpart in the Senate. They have a huge backlog of bills.

064 BARTON: The Bar would have no problem if Section 9.240 was not amended by Section 56.

071 CHAIR BAUM: Can we pass the bill out and feel confident we did the right thing?

074 BARTON: The International Arbitration Act with Section 56 deleted is the International Arbitration Act that the International Law Section did, in fact, want. There are issues in the State of Oregon as to what is the practice of law and what is not and that affects section 9.240. Perhaps that is a topic that should be dealt with by itself.

081 CHAIR BAUM: You want us to amend the bill with the proposed amendments, except don't touch Section 56?

082 BARTON: Correct.

084 MOTION, REP. MILLER: Move the amendments with the tire tracks on page 1 and delete lines 16 through 27 on page 3 and all of page 4 of the amendments and adopt the rest of the amendments.

089 CHAIR BAUM: Asked for objections. Being none, so moved.

091 MOTION, REP. MILLER: Move HB 2381 as amended to the Full Committee with a do pass recommendation.

VOTE: Motion passed. Rep. Clark to carry.

AYE: 7 NO: 0 EXCUSED:1 (Brian)

103 CHAIR BAUM: Meeting adjourned.

Submitted by: Reviewed by:

Diane Bassett Pat Zwick Assistant Administrator

EXHIBIT LOG:

A - Proposed amendments to HB 2312 - 1 page B - Testimony on  
HB 2312 - Terry - 9 pages C - Testimony on HB 2312 - Attorney  
General and Oregon Manufactured Housing Association and D.M.V. - 7 pages  
D-Proposed amendments to HB 3157 - 1 page