

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 CRIME AND CORRECTIONS

May 1, 1991Hearing Room 357 1:00 p.m.Tapes 97 - 98

MEMBERS PRESENT:Rep. Ray Baum Rep. Judy Bauman Rep. Rod Johnson Rep. Tom Mason Rep. Del Parks Rep. Ron Sunseri

MEMBER EXCUSED: Rep. Tom Brian Rep. Randy Miller

VISITING MEMBER:Rep. Kelly Clark Rep. Kevin Mannix

STAFF PRESENT: Greg Chaimov, Committee Counsel Kathy Neely, Committee Assistant MEASURES CONSIDERED: SB 570 PH (Cities) HB 2846 WS (Subpoena) HB 2586 WS (Crime) HB 2374 WS (Indigency)

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TAPE 97 SIDE A

003 REP. BAUM: Calls the meeting to order at 1:08 p.m. Will be acting Chair.

SB 570 - PUBLIC HEARING Witness:Senator Joyce Cohen

009 GREG CHAIMOV: Exempts cities situated in two counties from paying special county corrections assessments that total less than \$10 per month. No fiscal impact.

021 SENATOR JOYCE COHEN, DISTRICT 13, REPRESENTS THE CITY OF LAKE OSWEGO: (EXHIBIT A) It is a simple bill to allow the city not to send a check to a county for the special assessment if less than \$10.00. *Discusses Lake Oswego as part in Washington, Multnomah and the remainder in Clackamas. The Washington County portion of the assessment was \$.22 for 1991.

042 REP. BAUM: Closes the hearing on SB 570. *Recesses at 1:10 p.m. Convenes at 1:25 p.m.

(Tape 97, Side A) SB 570 - WORK SESSION

060 MOTION:REP. SUNSERI: Moves SB 570 to the full committee with a do pass recommendation.

REP. BAUM: Rep. Sunseri moves SB 570 to the full committee with a do pass recommendation.

VOTE: 5-0 AYE: Baum, Johnson, Mason, Parks, Sunseri NO: 0 EXCUSED:
Bauman, Brian, Miller

REP. BAUM: SB 570 is passed to the full committee.

(Tape 97, Side A) HB 2846 - WORK SESSION Witnesses: Rep. Bill Markham
Pete Shepherd, Department of Justice

079 GREG CHAIMOV: This bill gives the AG subpoena power without having to go through the grand jury. Discusses the Department of Justice proposed amendments (EXHIBIT B) and a hand engrossed version of HB 2262 from the 1983 session (EXHIBIT C) which encompass the proposed amendments by the ACLU.

086 REPRESENTATIVE MARKHAM, DISTRICT 46: This bill, with those proposed amendments, is better than it was last time before committee.

099 PETE SHEPHERD, DEPT. JUSTICE: Opposes the amendments submitted by the ACLU (EXHIBIT C).

107 REP. PARKS: Wants to hear what the amendments are.

114 SHEPHERD: Discusses the amendments proposed by the Department of Justice (EXHIBIT B). *They deal with Section 3 regarding potential for abuse of the release of such information. The amendments require the Dept. of Justice obtain a court order allowing use of the information, and must show a need for the use. *Also requires that examination take place in county of residence.

138 REP. PARKS: What are the ACLU amendments?

REP. BAUM: Reads the amendments (EXHIBIT C). What is the difference between the Dept. of Justice and the ACLU amendments?

148 SHEPHERD: The Board of Hairdressers and other regulatory boards in Oregon can issue subpoenas to collect information regarding violations of regulations they are responsible without having to go to court to obtain the subpoena. The ACLU amendments (EXHIBIT C) would require the AG to go to court before investigating crimes in jurisdiction.

154 REP. PARKS: Should that be a requirement?

162 REP. MASON: Does not understand Dept. of Justice's opposition to the ACLU amendments?

165 REP. PARKS: A plaintiff's attorney can issue a subpoena on his own. Why should the AG have to get a court order to issue a subpoena?

178 GREG CHAIMOV: Does the Dept of Justice oppose to the applying to the court for the issuance of the subpoena when the AG may be investigating the court?

180 SHEPHERD: That is a possibility. The AG jurisdiction could conceivably involve judicial officers.

186 REP. BAUM: The reason it cannot effectively use the existing process is the fact information could be "leaked" through the authorization procedure of using a court of grand jury.

191 SHEPHERD: That is a concern. The reason the existing grand jury process is ineffectively is if the information falls short of a criminal indictment, stuck with information that cannot be released to any other administrative or ethical regulatory body.

203 REP. MASON: Trying to get the AG to compromise.

204 REP. BAUM: What kind of compromise?

REP. MASON: Compromise with the amendments.

REP. BAUM: The ACLU amendments provide for going to the circuit judge.

209 REP. MASON: That is a reasonable compromise.

210 REP. BAUM: A private attorney does not have to go to the circuit judge. Closes session on HB 284 6.

HB 2586 - WORK SESSION Witnesses: Elyse Clawson, Dpt. of
Corrections Rosanna Creighton, CFDFDO

227 GREG CHAIMOV: HB 2586 was brought back to answer questions raised by the fiscal impact statement issued after passage out of the full committee. Under the bill, an evaluation for drug or alcohol dependency is not required but if find there is a dependency, shall send them to a rehabilitation program as part of probation program. A legitimate concern would be if a treatment program were not available, probation might be revoked. (EXHIBIT C - A- ENGROSSED VERSION OF BILL; EXHIBIT D - FISCAL IMPACT).

259 REP. BAUM: Asks about amendments to fix the revocation problem.

260 GREG CHAIMOV: Up to committee to decide whether to retain the A-engrossed version of the bill where the court "shall order", as a condition of probation, participation and successful completion of a treatment program or to retain current law. *If keep the "shall" language, might be appropriate to include some language such as "if there is no program available, it will not revoke probation". *Similar language on page 4, lines 14 through 16 dealing with employment.

281 REP. BAUM: It is either do something or do nothing.

283 REP. BAUMAN: The object is the criminal justice system should take into account that about 75% or more of felons have alcohol or drug abuse problems. The bill intends to treat the underlying abuse that keeps the parole return rate at about 77%.

314 REP. BAUM: Asks about adding a clause that will say if a program is not available, would not have probation automatically violated.

317 REP. BAUMAN: Don't know.

318 ELYSE CLAWSON, DEPARTMENT OF CORRECTIONS, ASSISTANT DIRECTOR: The Department is in support of this because of the treatment. The problem is the resources. *If there is no space available in the treatment program, then the offender is in violation of the conditions of parole and may be revoked. *Understands need to not have it so the court may not order it. *Prudent to substitute "may" for "shall" or put in some language which would suggest if program is not available.

346 REP. BAUM: Comments on circumstances to find a program.

347 CLAWSON: In order to find a program, need a lot of money because of the limited amount of people allows in the program.

359 REP. BAUMAN: Hearing the same problem, not a solution to that problem.

377 CLAWSON: A way to fix the language would be "the court shall order the defendant into a alcohol and drug treatment program if a program is available." The court would order it and must determine if a program is available and if not, it would not be ordered.

385 REP. BAUM: Comments on the process in the real world regarding waiting until a space is available. Discusses circumstances that may lead up to a referral to treatment.

TAPE 98, SIDE A

006 CLAWSON: Would not want someone to be violated if they cannot meet the conditions. That would defeat the purpose.

008 REP. BAUMAN: Agrees. Just underlining the problem. Until there is a commitment to funding, this will not get done.

028 REP. SUNSERI: If have to go back to "may order", there is no reason to have the bill. Prefers not to deal with it if cannot be funded. do pass and let it try to be funded.

032 REP. BAUM: The other option is to send it to Ways and Means and see if they will find money.

REP. SUNSERI: This bill would do no good without funding, the full force.

036 REP. BAUMAN: Ways and Means would be an appropriate place to balance the prioritization.

048 ROSANNA CREIGHTON, CITIZENS FOR A DRUG FREE OREGON, EXECUTIVE DIRECTOR: One of the things that motivated the CFDFO to introduce this bill is the sentencing guidelines allow a lot of the drug offenders to automatically get probation and not necessarily getting treatment. Need to take care of the problem.

073 REP. SUNSERI: Asks about changing back to "may" and in essence soften the bill.

077 CREIGHTON: If that is done, will be right back to starting point.

079 REP. SUNSERI: The dilemma is finding the money.

CREIGHTON: As funds are made available, this is what the courts and the probation officers should focus on. Thought the wording "as funds are made available" would help take care of the potential for costs.

086 REP. BAUMAN: Concerned about the way the Justice and Corrections system works. *"The Dept. of Corrections, to the extent that funds are available, shall expand and establish new treatment programs for alcohol and drug dependency" is a great directive. That would legislatively create a priority. *Believes there will be people who will violate the

conditions of parole because they could not afford treatment or treatment was not available. *Switching to "may" takes the "teeth out of our own policy".

110 REP. BAUM: Suggests adding "if the program is not available, probation is not revoked".

112 REP. BAUMAN: People are being revoked currently because treatment is not available and is considered a violation of the parole by the court.

122 REP. BAUM: Would like to move on to the next bill. Closes work session on HB 2586 p.m. Recesses at 2:00 p.m. Convenes at 2:15 p.m.

HB 2374 - WORK SESSION Witnesses: Bill Linden, Department of Justice, State Court Administrator Steve Rodeman, Oregon Credit Union League

157 GREG CHAIMOV: Discusses amendments to HB 2374 (EXHIBIT E). Comments on new amendments offered by the Judicial Department (EXHIBIT F).

176 REP. BAUM: Is there dispute over the May 1, 1991 amendments (EXHIBIT F) by the Judicial Department.

178 BILL LINDEN, STATE COURT ADMINISTRATOR: These amendments reflect an agreement reached with the District Attorney's Association.

188 REP. MASON: Why was the DA's association involved?

LINDEN: Discusses the last hearing of the bill. The DA's raised issues about information that was not going to be available to DAs.

190 MOTION:REP. MASON: Moves the Judicial Department's amendment (EXHIBIT F).

REP. BAUM: Rep. Mason moves the Judicial Department's amendments. Hearing no objection, so adopted. *Discusses the Credit Union Amendments, lines 16 (EXHIBIT E).

198 STEVE RODEMAN, CREDIT UNION LEAGUE: Leave line 16 and 17 alone at "actual costs".

200 REP. BAUM: Suggesting to amend Credit Union amendment?

REP. PARKS: Not a big problem. Spend more money tracking than recover.

204 REP. BAUM: Asks Bill Linden if there is a problem with the "actual costs" language in there.

205 LINDEN: Prefers the original language of "reasonable costs" be

REP. BAUM: It states "actual costs".

LINDEN: Prefers "actual" be changed to "reasonable".

RODEMAN: That is fine.

212 REP. PARKS: Advocating to get nothing, whether "reasonable" or "actual".

LINDEN: Financial institutions do not charge for this information.

218 REP. BAUM: As a matter of routine, they don't charge now. Not intending with this bill to "nickel and dime them to death". RODEMAN: As a matter of routine it is a telephone inquiry or an in person inquiry.

224 REP. MASON: How many of them are there?

RODEMAN: Over 15,000 per year. 25% are financial institutions.

LINDEN: They don't have any problem with this.

234 REP. BAUM: This is just for the "big ones".

RODEMAN: That would be where the costs would be incurred.

MOTION:REP. PARKS: Moves to reinsert the original language on lines 16 and 17 with the word "actual" replacing "reasonable".

REP. BAUM: Rep. Parks moves replacing "reasonable" with "actual". Hearing no objection, so adopted.

MOTION:REP. MASON: Moves the amended Credit Union Amendment (EXHIBIT E).

REP. BAUM: Rep. Mason moves the amendment. Hearing no objection, so adopted.

249 MOTION:REP. BAUMAN: Moves HB 2374 as amended to the full committee with a do pass recommendation.

REP. BAUM: Rep. Bauman moves HB 2374 as amended to the full committee with a do pass recommendation.

VOTE: 5-0 AYE: Baum, Bauman, Mason, Parks, Sunseri NO: 0 EXCUSED: Brian, Johnson, Miller

REP. BAUM: HB 2374 as amended is passed to the full committee. Closes work session on HB 237 4.

(Tape 98, Side A) HB 2586 - Work Session

REP. MANNIX: Suggests some amendments: *Adding on line 21, page 1 ", to the extend resources are available". *Adding on page 3, line 43 after "person", "and if public or private resources are available the court shall order" *Would eliminate any fiscal impact. *Discusses tracking the use of the resources in treatment.

303 MOTION:REP. SUNSERI: So moves what Rep. Mannix discussed.

REP. BAUM: Rep. Sunseri moves the above language.

305 GREG CHAIMOV: Asks for a repeat of the amendments.

307 REP. BAUM: Hearing no objection, so adopted.

MOTION:REP. SUNSERI: Moves HB 2586 as amended to the full committee with a do pass recommendation.

REP. BAUM: Rep. Sunseri moves HB 2586 as amended to the full committee.

VOTE: 5-0 Motion passes. AYE: Baum, Bauman, Mason, Parks, Sunseri NO:

0 EXCUSED: Miller, Brian, Johnson

327 REP. BAUM: HB 2586 as amended is passed to the full committee.
Adjourns at 2:27 p.m.

Submitted by: Reviewed by:

Kathy Neely, Assistant David Harrell, Office Manager

EXHIBIT LOG:

A	-	Material to SB 570 - Sen. Cohen - 1 page	B	-	Amendments
to HB 2846	- 2 pages	C	-	Amendment to HB 2586	- 4 page
D	-	Material on HB 2586 - 2 pages	E	-	Amendments to HB 2374
- 4 pages	F	-	Amendments to HB 2374	- 1 page	