

HOUSE COMMITTEE ON JUDICIARY FAMILY JUSTICE

February 8, 1991                      Hearing Room 357 2:00 p.m.                      Tapes 24-25  
MEMBERS PRESENT: Rep. Kelly Clark, Chair Rep. Judy Bauman Rep. Marie  
Bell Rep. Jim Edmunson Rep. Kevin Mannix Rep. Tom Mason Rep. Del Parks  
Rep. Ron Sunseri MEMBER EXCUSED: Rep. Parks STAFF PRESENT:                      Holly  
Robinson, Committee Counsel Jeff Steve, Committee Assistant MEASURES  
HEARD: HB 2056 - Driving Privileges (PH/WS) HB 2057 - Disabled  
Persons (PH) HB 2260 - Qualified Interpreter (PH/WS ) HB 2071 -  
Disabled/Discrimination (PH/WS)

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.

TAPE 24, SIDE A

004 REP. CLARK: Opens meeting on Family Justice Subcommittee at 2:06  
p.m.

022 PUBLIC HEARING -ON HB 2056 RE STATE INSTITUTIONS

Witnesses: Sally L. Godard, M.D., Mental Health & Development Disability  
Services

024 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains that under provisions  
of the Oregon Traffic Code, if a person has been committed or admitted  
to a state institution for persons with retardation or mental illness,  
they are automatically ineligible for a driver's license. HB 2056 would  
delete that provision and remove the automatic ineligibility provision.

031 SALLY GODARD, M.D., DIRECTOR OF PSYCHIATRIC EDUCATION, OFFICE OF  
MENTAL HEALTH SERVICES (EXHIBIT A): HB 2056 was introduced at the  
request of the Mental Health and Developmental Disability Services  
Division to remove from the statute an unnecessary and discriminatory  
provision concerning driving privileges for persons who have been served  
by state hospitals or training centers.- The applicable provision is  
paragraph 5 of House Committee on Judiciary February 8, 1991- Page 2

ORS 807.060 which is part of the Motor Vehicles Code. This statute  
assumes that all such persons are incompetent which is in direct  
contradiction to recent mental health statutes which assume that a  
person in these facilities is competent unless adjudicated otherwise  
legally. Also, the Motor Vehicles Division may grant a driver's license  
to people admitted or committed to a private psychiatric hospital,  
general hospital, or local community treatment facility which is  
discriminatory to those admitted to a state facility. 055 GODARD:  
Current statute conflicts with other statutes but it's also unnecessary  
because there are three remaining statutes that address driving  
eligibility and mental or physical disabilities (see EXHIBIT A).

074 CHAIR CLARK: Can't believe this is current Oregon law. 080  
REPRESENTATIVE SUNSERI: Are there any conditions where a person should  
automatically have revocation of a driver's license?

083 GODARD: There are conditions that affect one's ability to drive,  
but I don't know of any conditions in the psychiatric diagnosis that  
should automatically disqualify someone from driving.

089 CLARK: CLOSING PUBLIC HEARING ON HB 2056 AND OPENING WORK SESSION ON  
HB 2056 091 REPRESENTATIVES MASON, EDMUNSON, MANNIX, and BELL: Moves  
HB 2056 to Full Committee with a "do pass" recommendation. :  
096 VOTE: 6 0

Aye: Bell, Edmunson, Mannix, Mason, Sunseri, Clark No: 0 Excused:  
Bauman, Parks

Motion passes. HB 2056 moves to Full Committee with a "do pass"  
recommendation. Chair Clark to carry.

105 PUBLIC HEARING ON HB 2057 AND HB 2260 RE DISABLED PERSONS

Witnesses: David Powell, Oregon Disabilities Commission Kingsley Click,  
Deputy State Court Administrator Carl Garner, Deaf & Hearing Impaired  
Access Program, Oregon Disabilities Commission Jean Teets, Oregon  
Association of the Deaf Legislative Committee Valerie SalisB ury, League  
of Oregon Cities Paul Snyder, Association of Oregon Counties Roger  
Moles, Self Help Hard of Hearing Group 139 HOLLY ROBINSON, COMMITTEE  
COUNSEL: Explains HB 2057 is included within HB 2260 and that it will  
conform to current statutes with existing federal requirements regarding  
the

. House Committee on Judiciary February 8, 1991 - Page 3

employment and payment of interpreters for hearing-impaired and  
non-english speaking people. Notes HB 2260 is supported by Oregon's  
Judicial Department. Walks committee members through provisions of both  
bills.

189 REPRESENTATIVE MANNIX: Refers to indigency and a person's ability  
to pay for an interpreter. A disabled person will be provided an  
interpreter regardless of indigency while a non-english speaking person  
who has the ability to pay, will be required to pay unless that person  
can prove indigency, right?

198 ROBINSON: Yes, except non-english speaking persons are not  
required to pay across the board, only in criminal cases. 200 DAVID  
POWELL, VICE-CHAIR, OREGON DISABILITIES COMMISSION (EXHIBIT B) -People  
think of access for the disabled in terms of architectural barriers but  
not in terms of the hearing-impaired. -Explains four types of assistive  
communication devices for hearing-impaired. -Under existing law, all  
that is provided is an interpreter for indigent criminal defendant  
cases. The courts are not obligated to provide for interpreters in civil  
cases. The deaf person must pay for it which the Oregon Disabilities  
Commission believes would be in violation of federal mandate in the form  
of discrimination.

TAPE 25, SIDE A 003 POWELL: We strongly believe it's the responsibility  
of society to pay the cost of making the court system accessible to  
everyone, including the disabled. Estimated costs for this are  
relatively modest. Recommends HB 226 0 be passed with a "do pass"  
recommendation. 010 CLARK: HB 2260 seems to do two things: -Requires  
the appointment of an interpreter or assistive communication devices for  
hearing impaired. -Requires interpreters in cases where individuals  
don't speak english. -Not opposed to ideas but curious as to why they're  
in the same bill. 017 POWELL: To preserve existing law; actually it  
doesn't change existing law for people who don't speak english. Current  
law in ORS 40.325 requires the appointment of interpreters for a

disabled person and for the court to pay for the interpreter where the person is indigent. Defines "disabled person" under existing law as a person who cannot readily understand or communicate the english language or cannot understand because of deafness or physical hearing impairment.

030 MANNIX: Refers to HB 2260, page 2, section 2, which doesn't make any reference to a non- english speaking witness testifying on behalf of another party. Is that covered somehow? 043 POWELL: Reads ORS 40.325 and thinks it would apply to that situation. The attempt in section 2 was to codify existing law--perhaps that's something that could be changed. Difference is the indigency concerning the actual payment by the court system which wouldn't be changed.

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 proceed IgS, please refer to the tapes. House Committee on Judiciary February 8, 1991 - Page 4

056 MANNIX: Goes into examples of non-english speaking witnesses who would receive interpretation of the proceedings by the courts.

066 POWELL: A non-indigent party isn't entitled reimbursement of witness fees by the court-either in criminal or civil proceedings. If the party were an indigent criminal defendant who was english-speaking and wanted to have an non-english speaking, arguably if the defendant was indigent, that would be a cost that could be reimbursed. . 072 ROBINSON: Notes that it's covered under Section 1.A.

075 CLARK: The Legislative Administration Committee already offers interpretive services for our public hearings. 080 ROBINSON: Are interpreters now provided in federal court proceedings?

083 POWELL: Not certain. 094 KINGSLEY CLICK, DEPUTY STATE COURT ADMINISTRATOR: -The Judicial Dept. and the OCDLA support passage of HB 2260. Suggests two amendments to be considered: 1) Appropriations Provision, Section 10. Wants to add the appropriation of monies for assistive devices. 2) Add to Section 1.: "The State Court Administrator may enter into service contracts and may establish uniform policies and procedures subject to approval of the Chief Justice governing the appointment provision in payment of interpreters and proceedings before the circuit and district courts of the state, including the provision of interpreter services utilizing telecommunication methods. H Amendment would give State Court Administrator's Office the opportunity to promote greater statewide consistency in the availability and in quality of interpreters provided and to realize economies through service contracts where feasible." 141 CARL GARNER, COORDINATOR, DEAF AND HEARING IMPAIRED ACCESS PROGRAM, OREGON DISABILITIES COMMISSION (EXHIBIT C) (Submitted written testimony of EUGENE ORGAN, EXECUTIVE DIRECTOR, OREGON DISABILITIES COMMISSION, EXHIBIT D): Supports amendments offered by the State Court Administrator's Office. There's not really a need for HB 2057 with the provisions of HB 226 0. However, if HB 2057 moves forward, it does need "assistive device" language to bring it into compliance with existing federal law which it currently does not do. 169 MANNIX: HB 2057 is a narrower provision regarding contested cases. If we did HB 2260, we wouldn't need HB 2057? 170 GARNER: That's correct. HB 2057 resulted from consumer letters to the Commission which were then forwarded to the Attorney General's Office (AG). The AG's office drafted HB 2057 which was introduced by the Executive Dept. These bills are closely related to a report concerning SB 744, passed last session. 196 JEAN TEETS, RETIRED TEACHER, CHAIR OF OREGON ASSOCIATION OF THE

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 February 8, 1991 - Page 5

DEAF LEGISLATIVE COMMITTEE (OAD) (EXHIBIT E;): -OAD has tried to achieve full accessibility within the judicial system. -Hired interpreters are not always certified or qualified. -Deaf people are often required to pay for interpretive services which many cannot afford. -Deaf people incur many additional expenses hearing people do not just to hear the telephone, door bell, TV, etc. -Believes an interpreter should be provided anytime one is requested at the court's expense-- not the hearing-impaired's expense. -As taxpayers, we feel the counties and state should pay for interpreters. -Stresses need for "certified" interpreters due to structural differences between English and French language, the latter from which the American Sign Language was derived. -OAD supports HB 2260 and HB 2071. 279 VALERIE SALISBURY, LEAGUE OF OREGON CITIES: Notes there are approximately 100 cities with municipal court functions that would be affected by the provisions of HB 2260. Raises some concerns in the following: -Section 1, line 17, (parallel provision in section 2) dealing with payment obligations. Wants clarification on provision. 332 ROBINSON: Notes the intent of HB 2260 is to impose upon cities and counties running municipal or county courts. Municipal or justice courts would have the same requirements as state courts. Understands the language to direct that if a city or county has an interpreter available to them, they could set up their own means of providing the interpreter. The statute does not dictate to a local governing body how to provide the services but simply that they must-with fair compensation. 349 BAUMAN: In municipal court, would the state be required to pay for an indigent defense individual? 356 ROBINSON: Understands that municipal courts don't handle the kinds of cases that would rise to the level of seriousness that would be entitled to indigent defense services. In that situation, it would be moved to state court. 361 MANNIX: Assumes that concern expressed by local government which often arises is in regard to mandates by the state that local government do something. On a state level, we refer it to Ways and Means to see if we appropriate the money to do it. But local government gets the mandate in the mail and has to redo their budget to see if they can do it. 380 ROBINSON: Thinks concern about state mandate is a good one but the American Disabilities Act (ADA) will mandate cities and counties to provide those services because they offer public services to do this. It's an issue of access. 394 MANNIX: What's your counter to the federal government requiring it anyway? 397 SALISBURY: There's no question that cities are subject to federal mandates in this area but there are very real questions about the exact nature and extent of those mandates. Gives example, Section 504 of the Rehabilitation Act which would require that cities receiving federal . . . . 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 February 8, 1991 - Page 6

funds make reasonable accommodation for accessibility. Gives examples of flexibility in determining what services will be provided to accomplish goal. This bill would require an interpreter in every municipal case and possibly assistive communications devices. Could account for \$250,000 (\$2,500 per court x 100) that is not geared into the municipal budgets

at this time. These mandates aren't factored into our budgets.

TAPE 24, SIDE B

025 MANNIX: Have the local governments thought about creative, pro-active solutions to this challenge such as proposing consolidated hearings?

030 CLARK: Invites testimony from the counties' perspective on the issue. 034 PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES: Understood the provision in HB 2260 that SALISB URY referred to as being broader in its application than counsel determined. The counties want to comply with federal law but to the extent they have discretion to meet those requirements in the most cost-effective and appropriate fashion. Has concerns that HB 2260 not make the federal law even more restrictive in its application. 046 ROBINSON: Thinks the issue of how the service is provided is at the discretion of the local governing body while simultaneously complying with federal law.

051 REPRESENTATIVE BELL: Thinks the bill as written is very confusing. Maybe the emphasis should be on in a manner approved by, not the approval or disapproval. But it raises the question about the quality and standards of the signer. 061 CLARK: Suggests language slightly modified, ". . . by the city (or county) in a manner approved by the governing body of the county subject to the requirements of the United States Code (whatever section). . ." So, it's clear we're saying the cities and counties have the authority as to how they want to provide compensation within the requirements of federal law.

067 SALISB URY: My only question would be, is the compliance requirement with HB 2260 in addition to the requirements of federal law? I believe they are different standards--different requirements. We'll comply with federal law and we're doing that now. 074 CLARK: What you're really saying then is that you're opposed to the bill?

077 SALISB URY: We're not opposed to the concept but we'd like the flexibility to provide interpreters or assistive communication devices, or some other reasonable method to provide the interpretation communication services. As HB 2260 currently reads, it would require the appointment of an interpreter and assistive devices, if necessary.

083 ROBINSON: It's "either" "or." What makes this section confusing is the reference to fair compensation. What's subject to approval in this measure is the issue of fair compensation. 091 MANNIX: Looking at the language as written, it would be interpreted as a mandate. It says you will provide a qualified interpreter and you will provide assistive communication devices services.

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 content of the proceedings, please refer to the tapes. House Committee on Judiciary February 8, 1991 - Page 7

Recognizes the budgetary bind of local government. Suggests that a clause can be written that would say that the charge to local government is to seek this goal. Further suggests that local government get together and develop proactive ideas about creatively addressing the issue. Would consider giving them some time to do this.

117 CLARK: Wants to send HB 2260 to the Senate very quickly.

125 BELL: What if the county does not approve it?

127 ROBINSON: There are other remedies available for compliance. 1 133

CLARK: The approval reference refers to what is fair compensation--not "whether" but rather "how much (money)." 141 ROGER MOLES, PRESIDENT, SELF HELP HARD OF HEARING GROUP: Discusses adverse experience with court system after being arrested. The court did not provide any hearing devices. Got a traffic ticket and was unable to defend myself due to a lack of hearing devices. Supports having an interpreter in the courtroom as well as ALS systems and wants to see hearing impaired devices in all institutions, including the court system. Society needs this technology--wouldn't be able to testify here today without it. 0230 CLARK: CLOSSES PUBLIC HEARING ON HB 2260 AND OPENS WORK SESSION ON HB 2260

221 MANNIX: Sees heavy impact on local government with respect for indigent non-english speaking persons. Doesn't see a great need in this area except for criminal proceedings only. Makes a motion to amend page 2, section 2, line 7, to remove the words "civil or". Wants to amend it further to include civil cases involving the state. Wants to make a conceptual amendment to exclude the justice and municipal court civil cases from the requirement that they provide an interpreter for a non-english speaking witness in a civil matter. 244 ROBINSON: So long as the provisions of Section 5 dealing with non-english speaking persons in contested cases are intact. Has concerns about setting up internal inconsistencies. Wants systems to be parallel. 255 MANNIX: Wants to leave the state alone--let the state pay for this. It should not apply to justice court or civil court. 262 CLARK: Summarizes that Representative Mannix's proposal is that in civil cases, in local or municipal courts, to remove this obligation for the indigent non-english speaking persons--not for the hearing-impaired? 264 MANNIX: Correct. 293 CLARK: Representative Mannix moves that on page 2 of HB 2260, line 7, remove the words "civil or" and remove lines 22-27.

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 February 8, 1991 - Page 8

294 MANNIX: Section 2 covers civil or criminal proceedings where indigent people are parties at the local and state levels. Didn't mean to exclude civil proceedings at the state level. Should leave civil or criminal in the statute on line 7, and on the fair compensation section, insert a clause that this section does not apply to justice or municipal courts as to civil proceedings.

298 CLARK: Representative Mannix is making a motion for conceptual amendment which would delete civil proceedings in county or municipal courts from the requirement to appoint a qualified interpreter for a non-english speaking party. Asks counsel to draft that language, if the motion passes.

302 REPRESENTATIVE BAUMAN: Asks for a friendly amendment which would allow in that instance either party to remove that case to state court.

313 MANNIX: That's such a good idea, think we can broaden it. Why don't we allow removal wherever the municipal or county government can't afford the particular proceedings that are required and make the state pay for it? 317 CLARK: That's going too far.

320 ROBINSON: There are some cases where there wouldn't be the

authority to remove them.

331 CLARK: The proposed amendment is "to remove the requirement to provide a qualified interpreter for non-english speaking parties in civil cases for county and municipal courts provided, however, that any party can move to have that case removed into the state court system. "

343 BELL: Explain how HB 2260 would work if a person is an indigent non-english speaking American with a traffic ticket and goes to court. Is the suggestion that the case might go to a state court?

348 MANNIX: Gives example of such a person appearing at municipal court who wants an interpreter. The court could advise it doesn't have an interpreter and suggest that the case be requested removal to district court. 354 BELL: Has concern that what appears easy on paper could be very difficult for a non-english speaking American in rural Oregon. 375 CLARK: Recesses Work Session on HB 2260 for 5 minutes.

376 CLARK: Reconvenes Work Session on HB 2260.

377 MANNIX: Withdraws the suggested amendments without any objections.

393 CLARK: Refers to State Court Administrator's Office amendments.

401 ROBINSON: Explains those amendments as requested in their testimony. The first amendment is to add to Section 1 of HB 2260 to allow the State Court Administer to enter into service

These minutes contain materials which paraphrase and/of summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete content of the proceedings, please refer to the taper. - House Committee on Judiciary February 8, 1991 - Page 9

contracts and establish uniform policies and procedures subject to the approval of the Chief Justice governing the appointment provision and payment of interpreters. 433 The second amendment is on page 7, Section 10, line 4, concerning the appropriations clause to HB 2260 that would request language be added after the word "payment only of fees but also of the provision of assistive devices." Also, a request that HB 2260 be referred to Ways and Means. TAPE 25, SIDE B

009 CLARK: Representative Bauman moves the State Court Administrator's proposed amendments, listed on page 3 of Bill Linden's testimony (EXHIBIT ). No objection to the motion. It is so ordered. 017 MANNIX: Refers to page 1, lines 15 and 17, page 2, lines 24 and 26, where it says "subject to the approval of the governing body" to be changed to read in each noted place, "subject to approval of the terms of the contract by the governing body." 029 CLARK: Representative Mannix moves the deletion of that language on page 1, lines 15 and 17, on page 2, lines 24 and 26 to be substituted with the new language he requested. 050 CLARK: There being no objection to Representative Mannix's motion, it is so ordered. 051 REPRESENTATIVE MANNIX moves HB 2260 as amended to the Full Committee with a "do pass" recommendation with a subsequent referral to Ways and Means. 060 VOTE: 7-0

Aye: Bauman, Bell, Edmunson, Mannix, Mason, Sunseri, Clark No: 0  
Excused: Parks

Motion passes. HB 2260 passes as amended to the Full Committee with a "do pass" recommendation with a subsequent referral to Ways and Means. Notes that passage of this bill renders HB 2057 unnecessary.

063 CLARK: CLOSING WORK SESSION ON HB 2260 AND OPENS PUBLIC HEARING ON HB 2071 Witnesses: Carl Garner, Oregon Disabilities Commission David Powell, Oregon Disabilities Commission Caroline Kerl, Oregon State System of Higher Education 070 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes HB 2071. Refers to Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination based on handicapped and state financed programs and creates a cause of action for violation of that prohibition. Refers to packet

House Committee on Judiciary February 8, 1991 - Page 10

of statutes that currently exist within Chapter 659-of the Civil Rights Statute. 087 CARL GARNER, OREGON DISABILITIES COMMISSION (EXHIBIT G) (Submitted written testimony of EUGENE ORGAN, EXECUTIVE DIRECTOR, OREGON DISABILITIES COMMISSION, EXHIBIT H): -All citizens should have the right of access to public life. -Efforts to find loopholes to avoid compliance are mind boggling. -HB 2071 echoes the Office of Civil Rights' concern and push to the State of Oregon-- something needs to be in place at a local level which can address those issues. -Made some progress in Oregon with amendments passed to the public meeting laws. -Intent of HB 2071 was to eliminate the loopholes to continue legally discriminating against persons with a disability. 130 GARNER: If there are some language clarifications needed to ensure there isn't conflicting language relating to insurance law or other statutes, the Commission certainly wouldn't have any opposition to doing that as long as the intent of the bill is maintained. 135 REPRESENTATIVE EDMUNSON: Believes the Oregon Supreme Court has ruled that punitive damages are not available in an action against the state or public bodies. Thinks it's the Wheeler case. Should punitive damages apply to a city council or a public works department, for example? 148 GARNER: When the proposal was drafted and submitted to Legislative Counsel, we did not address the issue of punitive damages. 163 DAVID POWELL, ATTORNEY, OREGON DISABILITIES COMMISSION: Hasn't researched the issue but understands there are limitations on punitive damages against the political divisions of the state. Apparently, Legislative Counsel felt otherwise so we went with the draft of the bill. 170: CLARK: Won't be in a position to move the bill today but it's intended that there'll be another work session on a later date. 173 EDMUNSON: Frequently represents disabled people and there's discussion about discrimination. Some disabilities might prohibit some disabled from doing a job-like a blind person driving a bus. Wants language in bill to be clear so no one can cause an absurd result. 191 GARNER: This language parrots Section 504 of the Rehabilitation Act of 1973. If the person is qualified to do the job regardless of their disability, then because they have a disability they won't be given a chance. If a person is legally blind, they won't be qualified for the job as a bus driver. 203 MANNIX: Should that federal section be inserted in HB 2071?

208 POWELL: I don't have Section 504 here but have the ADA definition of "otherwise qualified" which does parrot Section 504. House Committee on Judiciary February 8, 1991 - Page 11

215 GARNER: If there are language clarifications that need to be made to eliminate misunderstandings, there's no opposition from the Commission to do that.

223 CLARK: On line 12, there's a blank on the compensatory damages figure. Any thoughts or suggestions about what that amount ought to be?



230 POWELL: The disabled community would like to have something of substance. Wants something in excess of the minimal \$200-\$400 under the Unfair Trade Practices Act.

239 MANNIX: Gives example of insulting behavior by a local government by excluding a disabled person in something. Do you think \$5,0( D would do the trick?

246 POWELL: In the case of local government, I think it would. Urges that the amount be enough to get compliance--the punishment should fit the crime and deter future conduct.

253 EDMUNSON: Notes there are other laws that govern claims against public bodies. Refers to Tort Claims Act.

265 POWELL: The Tort Claims Act might not come up in every instance.

267 EDMUNSON: Your intent is that Tort Claims Act would continue to apply?

268 POWELL: Yes, weren't suggesting to overturn or amend it.

272 CAROLINE KERL, OREGON STATE SYSTEM OF HIGHER EDUCATION (EXHIBIT D: Urges an amendment to HB 2071 to clarify that ORS 659.160 would remain the exclusive procedure in higher education. ORS 659.160 allows for an immediate court action for injunctive relief and also allows for an action for monetary damages. There are also provisions for attorney's fees. 310 CLARK: The provision for injunctive relief in ORS 659.160 looks like something that should be included in HB 2071. Is the money allowance of \$200 so low due to the injunctive relief provisions in ORS 659.160? 321 KERL: Wasn't involved in development of the legislation, but that could be the case. 323 CLARK: Considering the \$200 fine under your statute, don't think we want to get into a situation where we have a different amount depending on which state institution happens to run afoul of the discrimination provision. 328 KERL: Agrees that it would seem inequitable to have a different fine, depending on the agency involved. 330 CLARK: CLOSES PUBLIC HEARING ON HB 2071 AND OPEN WORK SESSION ON HB 2071 335 CHAIR CLARK: Moves a conceptual amendment that there be added to the bill a provision for House Committee on Judiciary February 8, 1991 - Page 12

injunctive relief similar to the state system legislation, ORS, Chapter 659 .

CLARK: There being no objection, it is so ordered.

345 CLARK: Representative Mannix moves the figure of \$200 into line 12.

CLARK: There being no objection, it is so ordered. 353 MANNIX: Moves to delete the provision as to "punitive damages."

354 CLARK: Representative Mannix moves the deletion of the words "and punitive damages" from lines 12 and 13.

359 EDMUNSON: Has concerns that there may be appropriate places where there is no Constitutional prohibition. Not suggesting it be removed because it's a bad idea but because we're sworn to uphold the Constitution.

382 MANNIX: Intent is to be broader by having injunctive relief, compensatory damages, attorney's fees. Usually needs to hear a pretty convincing case to be willing to add punitive damages into this kind of legislation.

391 MASON: (Tape inaudible.)

398 EDMUNSON: Extremely interested in seeing this bill become law. Urges supporters to follow this bill in Senate and if a case can be made for punitive damages, by all means, do so.

400 CLARK: Representative Mannix moves the deletion of the phrase, "and punitive damages" in lines 12 and 13 of Section 3 of HB 2071.

405 CLARK: There being no objection to the motion, it is so ordered.

407 CLARK: Representative Mannix moves for a conceptual amendment that "otherwise qualified disabled person" be defined from federal law.

408 CLARK: There being no objection, it is so ordered.

412 REPRESENTATIVE MANNIX moves HB 2071 as amended to the Full Committee with a "do pass" recommendation. 415 MASON: (Tape inaudible.) 417 CLARK: Can't imagine that the court would be prohibited from forming a class action simply because the organic statute referred to person rather than persons. Appreciate that clarification for the record. 420 VOTE: 6-0

Aye: Bell, Edmunson, Mannix, Mason, Sunseri, Clark House Committee on Judiciary February 8, 1991 - Page 13 No: 0 Excused: Bauman, Parks

Motion passes. HB 2071 passes as amended to the Full Committee with a "do pass" recommendation. Representative Bell to carry.

425 CHAIR CLARK: Adjourns the meeting.

Submitted by, Reviewed by, Holly Blanchard David Harrell EXHIBIT LOG: A - Written testimony, Richard C. Lippincott, M.D., Oregon Dept. of Human Resources, 2 pages B - Written testimony, David D. Powell, Oregon Disabilities Commission, 4 pages C - Written testimony, Carl Garner, Oregon Disabilities Commission, 1 page D - Written testimony, Eugene Organ, Oregon Disabilities Commission, 2 pages E - Written testimony, Eugene Organ, Oregon Disabilities Commission, 2 pages F - Written testimony, Jean Teets, Oregon Association of the Deaf Legislation Committee, 2 pages G - Written testimony, Carl Garner, Oregon Disabilities Commission, 2 pages H - Written testimony, Eugene Organ, Oregon Disabilities Commission, 2 pages I - Written testimony, Caroline Kerl, Oregon State System of Higher Education, 2 pages J - Written testimony, Robert C. Joondeph, Oregon Advocacy Center, 1 page K - Written testimony, Robert C. Joondeph, Oregon Advocacy Center, 1 page L - Written testimony, Lynn Pinckney, Oregon Student Lobby, 1 page

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.