

HOUSE COMMITTEE ON JUDICIARY

June 18, 1991Hearing Room 357 1:00 p.m.Tapes 57 - 58

MEMBERS PRESENT:Rep. Randy Miller, Chair Rep. Tom Mason, Vice Chair  
Rep. Ray Baum Rep. Judith Bauman Rep. Marie Bell Rep. Tom Brian Rep.  
Kelly Clark Rep. Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix Rep.  
Del Parks Rep. Ron Sunseri

STAFF PRESENT: Greg Chaimov, Committee Counsel Holly Robinson,  
Committee Counsel Jim Dole, Committee Counsel Jeff Steve, Committee  
Assistant

MEASURES HEARD:SB 427 - W.S. SB 1199 - W.S. SB 147 - W.S. SB 596 - W.S.  
SB 754 - W.S. SB 404 - W.S. HB 3589 - W.S. HB 2673 - W.S. HB 2944 - W.S.

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 127, SIDE A

004 ACTING CHAIR CLARK: Opens House Committee on Judiciary at 2:00 p.m.

Opens work session on SB 427.

SB 427 - WORK SESSION 018 CHAIMOV: Reviews provisions of SB 427 which  
revises the State Bar Act to conform the state bar's organic legislation  
to current practice areas of admission and attorney client privilege.

The one major change that the subcommittee made was to delete the  
provisions banning attorneys from practicing as business corporations.

022 MOTION: REP. EDMUNSON: Moves adoption of the SB 427-A3 amendments  
(EXHIBIT A).

023 VOTE: Without objection, amendments are adopted.

024 MOTION: REP. PARKS: Moves SB 427, as amended, to the floor with a  
do pass recommendation.

VOTE: On a roll call vote, motion is adopted. AYES: Reps. Baum,  
Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mason, Parks, Sunseri  
NAY: None EXCUSED: Reps. Mannix, Miller

030 ACTING CHAIR CLARK: Rep. Mason will carry the bill on the floor.

Closes work session on SB 427.

Opens work session on SB 1199.

SB 1199 - WORK SESSION

034 CHAIMOV: Reviews current law and provisions of SB 1199 which protects landowners from having to clean up hazardous wastes that some other person put on their property before the landowners bought the property.

038 MOTION: REP. EDMUNSON: Moves SB 1199-A to the floor with a do pass recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mason, Parks, Sunseri NAYS: None EXCUSED: Reps. Mannix, Miller

047 ACTING CHAIR CLARK: Rep. Edmunson will carry the bill on the floor.

Closes work session on SB 1199.

Opens work session on SB 147.

SB 147 - WORK SESSION

047 CHAIMOV: Reviews provisions of SB 147 which authorizes the State Board of Pharmacy to regulate out of state drug outlets selling drugs in Oregon. Principal issue before the subcommittee was whether the board's regulation of these out of state companies violates the commerce clause of the United States Constitution. Believes that the authority to regulate does not itself violate the commerce clause. It is possible that some day the board could promulgate some regulation that might violate the commerce clause.

053 MOTION: REP. BRIAN: Moves SB 140-A to the floor with a do pass recommendation.

055 REP. BAUMAN: Asks Rep. Clark to explain his no vote.

059 ACTING CHAIR CLARK: Because of concern about the commerce clause issue. Agrees with counsel's opinion.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mason, Parks, Sunseri NAYS: None EXCUSED: Reps. Mannix, Miller

070 ACTING CHAIR CLARK: Rep. Brian will carry the bill on the floor.

Closes work session on SB 147.

Opens work session on SB 596.

SB 596 - WORK SESSION

073 REP. BRIAN: Since the subcommittee moved on this bill, representatives of the District Attorneys Association have requested that district attorneys and deputy district attorneys be added to the list of exemptions from DMV disclosure.

Asks for unanimous consent to suspend the rules to amend SB 596-A5 amendment.

080 MOTION: REP. BAUMAN: Asks for unanimous consent to suspend the rules for the purpose of making a substantive amendment to SB 596.

089 REP. PARKS: This bill makes a substantial improvement in denying access and slowing down the process of people walking in off the street and obtaining DMV record information.

Concerned that adding a long list of exemptions will kill the bill.

105 VOTE: Without objection, rules are suspended.

107 MOTION: REP. BRIAN: Moves to amend SB 596-A5 amendment (EXHIBIT B) by inserting on page 1, after line 8 "(k) District attorneys or deputy district attorneys."

112 VOTE: Rep. Parks objects for the record, but does not request a roll call vote. Amendment is adopted.

116 MOTION: REP. PARKS: Moves adoption of SB 596-A5 amendments.

119 VOTE: Without objection, amendments are adopted.

120 MOTION: REP. PARKS: Moves SB 596-A, as amended, to the floor with a do pass recommendation.

129 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NAY: None EXCUSED: None

135 ACTING CHAIR CLARK: Rep. Parks will carry the bill on the floor.

Closes work session on SB 596.

Gives gavel to Chair Miller.

138 CHAIR MILLER: Opens work session on SB 754.

SB 754 - WORK SESSION

135 CHAIMOV: Notes SB 754-A6 amendments prepared at the request of Rep. Johnson (EXHIBIT C). Understands amendments are now correct.

Reviews provisions of proposed amendments.

141 MOTION: REP. JOHNSON: Proposes technical correction to SB 754-A6 amendment on Page 2, lines 13 and 20, Page 4, line 18 and wherever else required changing "property" to "petitioner's land".

155 VOTE: Without objection, amendments are adopted.

157 REP. MASON: Feels bill is impractical.

168 REP. PARKS: Has done several of these cases which are emotionally difficult. Feels SB 754 is an improvement to the current system and gives guidance to the judge and a sense of legislative intent.

178 REP. JOHNSON: Accepts that there are difficult proof problems, but clear direction on what can be done, given the facts, is given.

186 REP. BRIAN: If A had a \$100,000 residential property and B owned a lot behind it which was landlocked, does SB 754 say that B could force a driveway being put over A's property if it only devalued A's property \$10,000 or \$15,000?.

196 REP. JOHNSON: Yes, but the decrease in value would be paid for as it is now. With the bill we have added protection to the neighbor so that if it decreases his value by more than 20% he can just say no. That is an improvement over existing law.

198 REP. SUNSERI: Does the person have to pay the diminished value?

202 REP. JOHNSON: Yes.

204 REP. SUNSERI: If you have a situation that deals with aesthetic value, how would you deal with that?

207 REP. JOHNSON: All the subjective factors are part of the value judgment that must be made.

215 MOTION: REP. JOHNSON: Moves SB 754-A, as amended, to the floor with a do pass recommendation.

229 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Parks, Sunseri, Miller  
NAY: Reps. Brian, Mason

235 CHAIR MILLER: Rep. Johnson will carry the bill.

Closes work session on SB 754.

Opens work session on SB 404.

SB 404 - WORK SESSION

239 DOLE: SB 404 would make it clear that judges may collect fees for performing weddings. SB 404 -A7 amendments (EXHIBIT D) cap the amount of fees that can be collected at \$100 plus recovery of actual costs.

247 REP. PARKS: Why should judges be paid for performing weddings when they are already paid by the public?

252 REP. CLARK: The issue brought to us was not so much whether judges should be paid but the semantics problem that judges encounter on the question of honoraria. The Ethics Commission has said that if a judge performs a wedding and is offered an honorarium, he may accept it. However, the judge can not call that a fee, and can not say what his honorarium or fee customarily is, if asked. This puts judges in an ethical dilemma.

280 REP. PARKS: Will vote against the bill. Feels that Oregon judges are paid a fair salary.

It is poor public policy for citizens to give money to judges, even for weddings.

287 REP. BAUM: Rep. Parks has a point. Will vote no.

304 REP. BRIAN: The Government Ethics Commission objected to the bill and would only support reimbursement of expenses.

313 REP. MANNIX: Subcommittee received a lot of testimony on the bill and conducted lengthy discussions.

SB 404 is designed to encourage judges to make themselves available outside of normal working hours to perform weddings, recoup expenses and have some income for it.

SB 404 as it is before you is a compromise. Encourages committee to support it.

240 REP. BELL: Does not think judges are paid as much as they would make in private practice. Does not think fees in bill are excessive.

351 REP. JOHNSON: It is important to remember that we are not prohibiting judges from getting paid for doing weddings. They currently get paid. The only thing the bill does is allow them to state their fee ahead of time to do a wedding.

376 REP. BAUMAN: Will vote no on the bill.

No one has to be a judge and no judge has to perform a wedding ceremony.

TAPE 58, SIDE A

004 MOTION: REP. PARKS: Moves that SB 404 be sent back to subcommittee for purpose of limiting it to recovery of actual expenses.

008 REP. PARKS: Thinks there is a distinction between recovering actual out of pocket expenses and receiving a fee for performing a service that you are already paid for.

011 REP. CLARK: Opposes motion because subcommittee already considered that amendment and rejected it.

025 VOTE: On a roll call vote, motion fails. AYE: Reps. Baum, Bauman, Brian, Edmunson, Parks NAY: Reps. Bell, Clark, Johnson, Mannix, Mason, Sunseri, Miller

027 MOTION: REP. MANNIX: Moves adoption of SB 404-A7 amendments.

VOTE: Without objection, amendments are adopted.

029 MOTION: REP. MANNIX: Moves SB 404, as amended, to the floor with a do pass recommendation.

VOTE: On a roll call vote, motion fails. AYE: Reps. Bell, Clark, Johnson, Mannix, Mason, Miller NAY: Reps. Baum, Bauman, Brian, Edmunson, Parks, Sunseri

038 REP. CLARK: Changes his yes vote to no for the purpose of reconsideration of SB 404.

MOTION: REP. CLARK: Moves that SB 404 be rereferred to Subcommittee on Civil Law.

051 REP. MANNIX: Is there a consensus that if we reduce the amount to actual costs we could amend the bill in full committee?

057 VOTE: Without objection, motion is passed.

060 CHAIR MILLER: Closes work session on SB 404.

MOTION: CHAIR MILLER: Moves that HB 3589 be reconsidered.

HB 3589 - WORK SESSION

067 RANDALL JONES: HB 3589 prohibits campaign passthroughs or contributions from candidates to candidates, PACs to PACs, etc. The second part of the bill eliminates tax credits. The HB 358 9-1 amendments (EXHIBIT E) were adopted by the subcommittee and would reinstate tax credits for those measures or initiatives certified for the ballot.

076 CHAIR MILLER: Feels we have had this discussion on the floor. The House has passed an almost identical bill with HB 2490. Given its lack of a good reception in the Senate it is probably not wise to pursue this bill.

086 VOTE: Without objection, motion passes.

090 MOTION: REP. MANNIX: Moves to rerefer HB 3589 to the Criminal Law Subcommittee.

093 VOTE: Without objection, motion passes.

100 CHAIR MILLER: Closes work session on HB 3589.

Opens work session on HB 2673.

HB 2673 - WORK SESSION

100 HOLLY ROBINSON: HB 2673 in its present form, if the committee adopts the HB 2673-A3 amendments (EXHIBIT F), would effectively prohibit baby selling in Oregon.

104 MOTION: REP. MANNIX: Moves adoption of HB 2673-A3 amendments.

110 VOTE: Without objection, amendments are adopted.

107 MOTION: REP. MANNIX: Moves HB 2673, as amended, to the floor with a do pass recommendation.

115 VOTE: On a roll call vote, motion passes. AYE: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Parks, Sunseri, Miller  
NAY: None EXCUSED: Rep. Mason

117 CHAIR MILLER: Rep. Carter will be asked if she has an interest in carrying the bill on the floor. If she does not, Rep. Mason will carry.

Closes work session on HB 2673.

Opens work session on HB 2944.

HB 2944 - WORK SESSION

124 REP. MANNIX: Explains proposed technical amendments (EXHIBIT G).

The bill was sent back to committee on a motion by Rep. Clark for technical corrections.

Asks unanimous consent that the full committee proceed to make those

technical corrections.

135 MOTION: REP. MANNIX: Moves adoption of technical amendments.

137 REP. MANNIX: Speaks to the amendments.

139 REP. BAUMAN: Do these amendments get you to the constitutional minimum requirement to enact this bill on the House side?

152 REP. CLARK: When the bill went down yesterday six members were absent.

The proposed amendments will probably not get us any more votes. My research indicated that the bill will pass the House.

160 REP. BELL: When the floor debate veered from our intent and started talking about relatives trying to get their relatives' money, subcommittee members should have made it clear what our intent was and what the bill is designed to do. Feels that might have contributed to the bill's downfall.

174 REP. CLARK: The person would not be committed until after they received an attorney. If there were no funds for an attorney, the judge would have the authority to dismiss the petition or request a member of the bar to represent the person without compensation.

182 REP. PARKS: What does this bill do that the conservator/guardianship provision doesn't?

185 REP. MANNIX: It allows people who want to work with the homeless to do that without assuming full responsibility for the lives of those individuals, but to intervene and work with them.

198 MOTION: REP. MANNIX: Moves HB 2944 proposed technical amendments.

VOTE: Without objection, amendments are adopted.

204 REP. JOHNSON: Responds to Rep. Bell's comments. The intent of the committee on this bill is irrelevant unless the words on the paper are ambiguous. Suggests that in lines 18 and 19, page 3 of the bill where it says any two citizens can cause this person to be committed, any two people could cause the process to go forward regardless of the intent.

229 MOTION: REP. MANNIX: Moves HB 2944, as amended, to the floor with a do pass recommendation.

242 REP. MANNIX: Citizens can only instigate an investigation, examination, and hearing and must be willing to pay for the process and proposed treatment. They can not initiate a commitment. A circuit court judge will have to determine that a person is incapacitated, unable to make independent decisions regarding his own welfare, and is drug dependent or a final stage alcoholic.

245 REP. JOHNSON: Does not think that this bill has enough support to go back to the House floor.

271 VOTE: On a roll call vote, motion passes. AYE: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Mannix, Parks, Miller NAY: Reps. Johnson, Sunseri EXCUSED: Rep. Mason

280 CHAIR MILLER: Rep. Clark will carry the bill on the floor.

Closes work session on HB 2944.

Adjourns meeting at 2:50 p.m.

Transcribed by,

Pat Zwick

EXHIBITS LOG: A:SB 427-A3 Amendments - Staff - 1 page B:SB 596-A5  
Amendments - Staff - 5 pages C:SB 754-A6 Amendments - Staff - 5 pages  
D:SB 404-A7 Amendments - Staff - 1 page E:HB 3589-1 Amendments - Staff -  
1 page F:HB 2673-A3 Amendments - Staff - 1 page G:HB 2944-A Proposed  
Amendments - Rep. Mannix - 1 page