

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.

Measures Heard SB 48, PH & WS SB 492, PH & WS SB 376, PH

SENATE COMMITTEE ON JUDICIARY

March 25, 1991Hearing Room C 1:00 p.m.Tapes 71 - 73

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Jim Bunn Sen. Jeannette Hamby Sen. Bob
Shoemaker Sen. Dick Springer

STAFF PRESENT: Ingrid Swenson, Committee Counsel Kate Wrightson,
Committee Assistant

WITNESSES: Dave Edwards, Mental Health &
Developmental Disabilities Division Diane Ness, First Interstate Bank
Frank Brawner, Oregon Bankers Association Timothy Wood, Assistant
Attorney General Carl Stecker, Oregon District Attorneys Association
David Heynderickx, Legislative Counsel Nori Cross, Oregon Judicial
Department Ross Shepard, Oregon Criminal Defense Lawyers Association

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TAPE 71, SIDE A

002 CHAIR COHEN: Calls hearing to order at 1:09 p.m.

SB 48, RELATING TO CONFIDENTIALITY OF COMMUNITY MENTAL HEALTH PROGRAM
RECORDS, PUBLIC HEARING & WORK SESSION

024 DAVE EDWARDS, MENTAL HEALTH & DEVELOPMENTAL DISABILITIES DIVISION:
Submits and reviews written testimony (Exhibit A).

033 CHAIR COHEN: Do the agencies to whom you subcontract clients have
the same duty to maintain confidentiality?

036 EDWARDS: Yes.

037 CHAIR COHEN: They have the same duty as you do to keep
confidentiality, in terms of medical and mental health records.

050 SEN. HILL: Is there a policy reason for the distinction between

private and public agencies?

052 EDWARDS: There is no policy distinction. The Division contracts with county mental health programs, who have the option to either deliver service themselves, or to subcontract. -The existing statute overlooks that possibility. -Half the mental services in the state are delivered by private agencies.

060 SEN. SHOEMAKER: Do these community mental health providers have to be licensed? -Can a purely private agency set itself up as a community mental health provider, without official sanction?

066 EDWARDS: In order to advertise themselves as a mental health program, they must be certified by us. -We certify those agencies who wish to receive public or insurance funds.

071 SEN. SHOEMAKER: In order to be a mental health provider, you need a license. -The amendment extends only to licensed providers.

075 EDWARDS: That is correct.

077 SEN. SPRINGER: To what extent do you help agencies, newly covered under this language, to understand what their duties are regarding confidentiality?

084 EDWARDS: The Division publishes and updates a confidentiality handbook every year, and we conduct ongoing training sessions on confidentiality rules.

093 SEN. SPRINGER: Is there any problem with programs not observing confidentiality, or observing it too closely?

098 EDWARDS: We believe it is necessary to protect providers and consumers of private programs. -We have not had major problems with the statutes as written.

103 SEN. SHOEMAKER: This also reaches any subcontractor of community mental health programs. -What does that include? Must they also be licensed?

108 EDWARDS: The Division contracts with the county. If the county chooses to subcontract to a private agency, those agencies are the subcontractors. -They must be licensed by the state.

117 SEN. SHOEMAKER: The statute says that a provider may be a private organization, and then subcontractors are given protection. -Who is that? Are you moving down several tiers in the hierarchy?

126 EDWARDS: In three counties, the county has opted not to provide public mental health programs; thus, those counties are fully subcontracted. -The subcontractors may subcontract further, to specialized operators.

135 SEN. SHOEMAKER: Must those specialized agencies be licensed?

136 EDWARDS: Yes.

137 SEN. SHOEMAKER: No subcontractor could be unlicensed.

138 EDWARDS: That is correct.

146 SEN. HAMBY: Moves SB 48 to the floor, with a "do pass" recommendation.

150 MOTION PASSES UNANIMOUSLY, SEN. BUNN EXCUSED.

SB 492, REQUIRES MAIL AGENTS TO VERIFY SPECIFIED INFORMATION ABOUT TENANTS, PUBLIC HEARING AND WORK SESSION

157 SWENSON: Reviews intended purpose of bill. Submits -2 amendments (Exhibit B).

165 DIANE NESS, FIRST INTERSTATE BANK: Testifies in favor of SB 492.

223 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Submits and reviews written testimony (Exhibit C). -We support the -2 amendments.

241 SWENSON: Reviews civil penalties section of -2 amendments. -This is not covered by SB 101 because a court action is required.

250 TIMOTHY WOOD, ASSISTANT ATTORNEY GENERAL: Reviews proposed amendments.

275 SWENSON: Section 2, line 13, uses the language "if the mail agent has reason to believe." -The amendments say "if the agent knew or should have known". -Is there a problem with tenses? Should amendments read "the agent knows or should know"?

283 WOOD: We could work under either standard.

291 SWENSON: The amendments are drafted in past tense, but the violation occurs in present tense. -I suggest the substitution of "know or should know" on line 16 of the -2 amendments.

301 SEN. HILL: Moves proposed amendment to -2 amendments.

308 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

310 SWENSON: The bill does provide for a surety bond of \$10,000. -The Attorney General's office takes no position on that, but asked that the issue be brought to the committee's attention.

318 SEN. SHOEMAKER: Section 5 of the -2 amendments give the Attorney General rights over violations of Sections 2 and 3. -Section 3 is the surety bond. Is it appropriate for that to be here?

328 WOOD: The intent is that the fines and injunctive relief would apply to the mail agent who failed to get or maintain a bond.

337 SEN. SHOEMAKER: This bill appears to make acceptance of mail for assumed business names illegal, because it covers fictitious names. -Would a technical amendment be appropriate?

357 WOOD: It is a practical matter. If a person is properly using an assumed name, then there is not a problem.

364 SEN. SHOEMAKER: We don't want a statute that appears to make it illegal to use a mail agent.

368 WOOD: If the user was registered, then there would not be a

fictitious or false name.

371 BRAWNER: It was not our intent to involve legitimately assumed business names.

382 SEN. BROCKMAN: Could we refer to names used for purposes of deception?

384 CHAIR COHEN: I think that is a different issue. -Suggests adding "unregistered" before "business name" on line 13, Section 2, of the -2 amendments to SB 492. -Moves proposed amendment.

410 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

414 SEN. HILL: Moves for adoption of -2 amendments, as amended.

420 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

421 SEN. HILL: Does this bill now go to the Committee on Ways & Means?

422 SWENSON: The Attorney General has requested that referral, but no subsequent referral has yet been made.

425 CHAIR COHEN: We will ask the President of the Senate if such a referral is possible.

442 SEN. HILL: Asks that such a request be made.

447 SEN. HILL: Moves SB 492 to floor, as amended, with a "do pass" recommendation.

468 MOTION CARRIES UNANIMOUSLY.

SB 376, REVISES PROCEDURES FOR IMPOSITION OF SANCTIONS FOR CONTEMPT OF COURT, WORK SESSION

037 SWENSON: Submits -4 amendments (Exhibit D).

039 CARL STECKER, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in favor

of SB 376. Submits written testimony (Exhibit E).

051 CHAIR COHEN: Requests review of bill before amendments are presented.

059 SWENSON: Submits hand-engrossed version of bill, dated 3/20/91 (Exhibit F). -The -4 amendments are brought by the proponents of the measure.

068 NORI CROSS, OREGON JUDICIAL DEPARTMENT: Testifies in favor of SB 376.

071 CHAIR COHEN: Requests review of hand-engrossed bill.

075 SWENSON: Refers to page 1 of hand-engrossed bill. -Current case law requires not only wilful contempt, but "bad intent". In consequence, we must decide whether to use "wilful" only, or to add "bad intent." -The -6 amendments (Exhibit G) would address that problem.

096 DAVID HEYNDERICKX, LEGISLATIVE COUNSEL: The -6 amendments intend to incorporate present law, with respect to burden of proof in showing contempt. -There is a two-pronged test; you must show both "wilful" action and "bad intent." -This is a policy issue which the committee must decide.

115 CROSS: We had understood case law to say that "wilful" meant bad intent. -The drafting committee had considered whether the standard should be changed from "wilful" to "intentional." If "wilful" included bad intent, were they the same standard? We didn't know. -Our bill reflects some of the Wisconsin revision of 1979. Those drafters chose to use "intentional," and our early draft used the intentional standard. -We are trying not to change much current law. We decided that we should leave that for you.

142 SEN. BUNN: Moves to adopt the -6 amendments to SB 376.

146 SEN. HILL: Are bad intent and bad faith the same thing?

149 CROSS: I am not sure they are.

153 HEYNDERICKX: I cannot remember if this was the language in the case or not. It probably was.

159 SEN. HILL: We should use the language in the case.

161 SWENSON: The important thing is the committee intent, and not really the language.

164 SEN. HILL: I think they are different things.

168 HEYNDERICKX: The case uses both, and that is the problem.

174 ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: A solution may be to adopt the intentional standard of the Criminal Code. -These terms are derived from case law, not from the statutes. -It makes sense to use the language of the Code.

188 CHAIR COHEN: You are proposing different language.

189 SHEPARD: Starting on line 9 of page 1, change every appearance of "wilful" to "intentional."

194 SEN. SHOEMAKER: Is "intentional" defined in the statute as an element of bad faith or bad intent?

196 SHEPARD: No. -"Intentional" means, as found in ORS 161.085, "a person acts with a conscious objective to cause the result or to engage in the conduct so described."

203 SEN. SHOEMAKER: You want us to depart from the standard found in case law?

213 SHEPARD: Yes. I do not think this will increase the burden on the prosecution in any way.

217 SEN. BUNN: It would lessen the burden on the prosecution if we adopted the -6 amendments. -I would like to see as much protection for the individual as possible.

228 SEN. SHOEMAKER: This bill does several important things: -gives a private right of action through the avenue of contempt; -provides damages to plaintiff in a private contempt action; -requires bonds, jail sentences, and other sanctions against the defendant. -If we allow third party action within contempt proceedings, I want to stay with case law and bad intent.

247 SEN. HILL: Do we need "intent," or would "bad faith" cover the problem?

251 HEYNDERICKX: I would prefer "bad intent," for the reason that bad faith might be an even harder standard.

257 SHEPARD: I agree.

260 SEN. SHOEMAKER: The most recent appellate decision uses "bad intent." It makes reference to bad faith, but it primarily uses intent.

266 CHAIR COHEN: Sen. Bunn, would you accept a friendly amendment to change the language to "bad intent"?

270 SEN. BUNN: Moves to substitute "bad intent" for "bad faith" in the -6 amendments, by which motion his previous motion was effectively withdrawn.

272 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

275 SEN. SHOEMAKER: Again, I am thinking in terms of a third party right of action. -If we define contempt of court as "a wilful refusal as a witness to appear, be sworn, or answer questions, or "to produce a record, document or other object," then it's the intent that this be a wilful refusal after having been so ordered. However, the bill doesn't say that. -One could have a deposition where defendant refuses one of these, and we wouldn't want that to lead to a contempt charge. -I want language in subsections C & D that it is "contrary to order of the court."

306 STECKER: My only concern with such a limitation is the current discovery statute. -Under that, a person may be held in contempt for failing to answer written interrogatories, issued without a court order.

319 SEN. SHOEMAKER: I am concerned about authorizing third party contempt action, when what is being pursued is not a specific violation of a court order.

333 STECKER: That particular statute is limited to prosecution of discovery mechanisms through the district attorney; I am not sure it is a private cause of action. -I am wary of language which might limit that.

344 CHAIR COHEN: Nobody is trying to advocate that. -Are you saying that a private attorney cannot currently force that sort of action? It is all in the hands of the district attorney?

352 STECKER: I believe that the statute is limited to prosecutions by district attorneys or other similar enforcement agents.

356 SHEPARD: I believe that subsection E of section 1 may answer Sen. Shoemaker's concerns.

360 SEN. SHOEMAKER: Would that mean that my proposed insertion into subsections C & D would be appropriate?

363 SHEPARD: Yes.

366 SEN. HILL: If that situation with the interrogatories occurred, would you ask the court to hold the person in contempt?

369 STECKER: Yes. The order is not related to violation of court order, but to refusal to answer discovery.

378 SEN. BUNN: Moves to adopt -6 amendments, as amended, to SB 376.

386 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

388 SEN. SHOEMAKER: Moves that lines 14 and 15 be amended, by adding "contrary to an order of court" at the end of line 14, and by adding "contrary to an order of court" after the semicolon in line 15.

401 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

411 HEYNDERICKX: In section 1, paragraph B of subsection 1 does not say "wilful," and it should. -This is part of the -4 amendments.

425 SEN. SHOEMAKER: If "wilful" is to be part of subsections A through E, why don't we put it in the definition of contempt?

432 CHAIR COHEN: I don't have a problem with that, but we may just repeat it for the emphasis.

TAPE 71, SIDE B

003 STECKER: The appellate case, I think, was limited to punitive contempt. It did not apply to the remedial sanctions. -I would question wholesale revisions, if they apply to both remedial and punitive sanctions.

009 SWENSON: The older cases, used in the appellate decision, do use the same language in both remedial and punitive sanctions.

017 CHAIR COHEN: Criminal liability of corporations is covered in section 2. What is section 1a?

023 HEYNDERICKX: I put the liability issues in section 2 for lack of a better place to put it. -These subsections are derived from the criminal statutes on corporate liability for criminal acts, and we are merely making procedures consistent with those for contempt.

040 SEN. BUNN: Why did this need to be changed? Does it pick up additional coverage?

044 CHAIR COHEN: This gives the issue some more definition. It was difficult to tell where responsibilities actually lay within a corporation.

047 CROSS: The Procedure & Practice Committee had raised a question of whether one could hold a corporation's agent (not officer) in contempt. -The standard said that the agent had to be responsible for the act itself, and could not be held vicariously liable. -The changes made regarding liability make sense to Procedure & Practice Committee

members.

069 SEN. SHOEMAKER: This doesn't extend to shareholders. Should it?

080 CROSS: I don't think we intended to exclude them, if they were the person responsible and they were acting as an agent. -I can see that the language, "acting in scope of employment," might be a problem.

084 SEN. SHOEMAKER: Perhaps the corporation is acting as agent of the shareholder.

086 CROSS: Someone has to make the corporation act.

087 SEN. SHOEMAKER: Moves to amend the hand-engrossed version of SB 376 by adding "shareholders" to lines 13 and 16 of page 1a.

097 SEN. HILL: I'd like to understand why we are including shareholders.

105 HEYNDERICKX: I don't know if I would include this in subsection 2. -There is no way a shareholder can direct a corporation to do something without going through the board of directors. -Personal liability is covered in subsection 3. I would add this there if you wanted to incorporate shareholder liability.

124 CHAIR COHEN: Since the working group didn't go that far, I don't know whether we should.

149 SEN. BUNN: Does the language of line 23-26 lead to problems with double jeopardy?

163 CROSS: This language is either exactly, or almost exactly, the current statute. The criminal statutes on jeopardy do apply in these proceedings. -Different purposes may justify different actions, though you would still have to account for prior sanctions, so as not to punish the person twice.

195 SEN. SHOEMAKER: When the court takes previous conduct into account, do sentences go up or down? -What do you mean by "the same conduct?" You may have two different instances of the same conduct, and may get different sentences of each. -Are we discussing the "same incident?"

212 CHAIR COHEN: Any of the above. These are issues for judicial discretion.

217 SEN. SHOEMAKER: What was the intent of the drafters?

219 CHAIR COHEN: This is current law, and they left it as it is.

224 HEYNDERICKX: The first sentence is current law, though I am not sure on the one Sen. Shoemaker is concerned about.

233 CROSS: If the second sentence is not current law, it does reflect case law.

249 SEN. SHOEMAKER: If there is a contempt proceeding for a second incident, is it the intent of the drafters that the court take into consideration a sanction imposed for the first incident? -Is the sanction increased for the second incident?

261 HEYNDERICKX: I think the court could do that without this bill, within the limitations of section 9. -There may always be some discussion about this. -I think it means the "same incident." -It probably isn't constitutional to impose two sanctions for the same incident.

286 SEN. SHOEMAKER: If they are remedial sanctions, those rules don't apply.

287 HEYNDERICKX: That is true. The court would be able to impose a remedial sanction on top of a punitive sanction, and they could take the punitive sanction into account.

299 SEN. BUNN: If this is a remedial sanction on top of a punitive sanction, that language may be worthwhile to add -I thought that "same conduct" was "same incident." Maybe we should specify this.

313 CHAIR COHEN: I think we should leave it to judicial decision.

325 SEN. SHOEMAKER: We might be inviting appeals if we don't clear this up. -Line 31 on page 2 concerns private rights of action. Should that be "alleged contempt of court?" -If we made this change, then a third party could not initiate proceedings until the court had found that contempt had occurred.

383 CROSS: No. It would be almost impossible for the court to make such a decision.

388 CHAIR COHEN: Then "alleged" would present no problem.

389 CROSS: I think that is probably the intent.

395 SEN. SHOEMAKER: Moves to amend hand-engrossed version of SB 376, so that line 31 reads "if party aggrieved by an alleged contemnor."

399 SEN. BUNN: Anyone who alleges a contempt is then entitled to bring an action?

402 SEN. SHOEMAKER: I think that is what they intend.

403 CROSS: Anyone who alleges contempt can move the court for an order, but that does not mean there is sufficient information for a determination.

411 HEYNDERICKX: The party does have to be aggrieved, but I don't know how that will be interpreted.

422 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

TAPE 72, SIDE B

008 SEN. SHOEMAKER: I would like to clarify a point on page 3, line 27, concerning appointment of prosecutors. -Should this state explicitly that an attorney for a complaining third party cannot be appointed?

015 CROSS: If the government prosecutor declines, or if the district attorney or other prosecutor declines, the aggrieved party's attorney may be appropriate. -Supreme Court case law recognizes that there may be a right to a special prosecutor.

027 SWENSON: The court has inherent power to appoint prosecutor, but it was improper to appoint party's attorney to a public function.

039 CHAIR COHEN: We could say that it cannot be the attorney of an interested party.

048 SEN. SHOEMAKER: An attorney has certain responsibilities. Those to the public and those to a client are different. -Moves to amend page 3, line 27, of the hand-engrossed bill by the addition of "attorney of an interested party."

056 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

057 SEN. BUNN: Line 16 on page 3 deals with levels of proof. -When incarceration is in question, I believe that the level of proof should be "beyond a reasonable doubt." -This section deals with remedial penalties, and those penalties appear to be just as severe as punitive sanctions. Thus, the threshold of proof should be equal.

068 HEYNDERICKX: The bill does indicate that the defendant is entitled to the statutory protection afforded in criminal proceedings. That protection gives the right to proof "beyond reasonable doubt."

074 CHAIR COHEN: I would argue against Sen. Bunn. This is one of the areas where we need to clearly distinguish between remedial and punitive sanctions.

091 STECKER: The Oregon Supreme Court has ruled that a "clear and convincing" standard applies for remedial sanctions. -In terms of punitive sanctions, they have ruled that the standard is "beyond a reasonable doubt." -Sen. Bunn's proposal would overrule case law.

099 SEN. BUNN: Is that ruling because of lack of legislative direction? -Moves to amend line 16 on page 3 of the hand-engrossed bill by replacing "clear and convincing" with "beyond a reasonable doubt."

115 MOTION CARRIES, WITH SENATORS BROCKMAN, BUNN, HAMBY, AND SPRINGER VOTING AYE, AND SENATORS COHEN, HILL, AND SHOEMAKER VOTING NAY.

118 CHAIR COHEN: Do we then no longer need two standards for remedial and punitive sanctions? -Why don't we have one contempt standard, without differentiating between punitive and remedial?

123 HEYNDERICKX: We still need to have the different standards, because there are other things affected by the definition of two kinds of sanctions.

128 SEN. BUNN: Even if we had the same standard, the two are separate because one is a punishment and the other is to bring about compliance. -On line 44 of page 3, the bill reads "except for the right to a jury trial." I don't want to explicitly remove the right to a jury trial. -Moves to delete the first eight words of line 44, page 3, of the hand-engrossed bill.

143 CROSS: That language reflects current case law. There is no right, under the Oregon Constitution, to a jury trial in contempt proceedings. -There is no right to a jury trial in contempt proceedings under federal law, as long as incarceration is six months or less. -The Judicial Department would have concerns with this change.

159 SEN. BUNN: I would argue that the sentencing guidelines provide six months as sentence for a wide range of felonies.

168 SEN. HILL: We are still talking about the issue of prison and jail space. Changing these standards means an additional cost to the state. -It is somewhat of a problem to extend contempt beyond other criminal situations, but there is a point where we have to be realistic about cost. -If incarceration is beyond 6 months, then a jury trial is appropriate. Jury trials for lesser sentences are too expensive.

197 MOTION FAILS, WITH SENATORS BUNN AND SPRINGER VOTING AYE, AND SENATORS BROCKMAN, HAMBY, SHOEMAKER, HILL, AND COHEN VOTING NAY.

198 SEN. SHOEMAKER: Lines 42 and 43 on page 4 authorize compensation for loss as a possible remedial sanction. Does that include consequential damages?

207 STECKER: Under current law, the court is enabled to award costs to indemnify the party, which may include compensation for loss.

216 SEN. SHOEMAKER: Consequential damages can go beyond that. For example, someone might lose a business opportunity. -Is it your intent that contempt proceedings can be used for a whole array of damages?

224 STECKER: I don't think it has been contemplated that the contempt proceedings would lead to that. There may be a separate course of action for damages.

230 SEN. SHOEMAKER: Do we need language to limit damages which can be awarded in a contempt action, so that it isn't another avenue for private rights of action for damages?

241 CROSS: I'm not sure I can answer that. If you want to set this limit as a policy matter, we will work on it with counsel.

248 SEN. SHOEMAKER: It seems that we should be talking about direct damages.

253 HEYNDERICKX: As part of the Tort Reform Act, we did distinguish between economic and noneconomic damages. -You wouldn't want to deal with noneconomic damages, and you may not even want to cover all of economic damages.

263 SEN. SHOEMAKER: It may be appropriate to incorporate those economic damages into the bill.

268 CHAIR COHEN: We don't want to rewrite the whole bill.

269 SEN. SHOEMAKER: Isn't this a comprehensive overhaul of the contempt statutes?

272 CHAIR COHEN: It depends on how much flexibility you are willing to give to the judges.

294 HEYNDERICKX: These are only authorizations. It might be foolish to rely on this to recover damages from contempt proceedings.

304 SEN. SHOEMAKER: It could create an appealable issue, though. What if the court imposed a sanction of damages, rather than confinements, as

compensation for suffering as a result of contempt. If the plaintiff cites these statutes, what should we do?

321 CHAIR COHEN: I don't know when that would happen.

325 STECKER: An example might be an employer who neglected withholding, who was cited for contempt. An appropriate remedy might be the time loss value of those funds. -Under current law, that is indemnification.

341 SEN. SHOEMAKER: It is hard to contemplate the different types of contempt cases which might be brought under this third party right we are creating.

349 CHAIR COHEN: I don't think that we have changed anything in current law.

352 CROSS: We had not intended it to make a change.

358 CHAIR COHEN: How many cases have you had that would bring in these circumstances noted by Sen. Shoemaker? -It appears broader in current law. This proposes to narrow it.

365 STECKER: It has been very slight: less than 1% of cases brought under these proceedings, where we have sought compensation on behalf of the state.

371 SEN. SHOEMAKER: What about private parties? Can a private party currently pursue a contempt action?

375 CROSS: There are two avenues by which a private party can initiate an action for contempt: under ORS 33, where the state is named as a nominal plaintiff; or under ORCP 78D, which is an alternative motion procedure.

402 SEN. SHOEMAKER: Can those two avenues lead to private damages?

404 CROSS: Under ORS 33, there is a provision for indemnification which has included various types of costs and injury. -I don't know if compensatory damages have been awarded under that chapter, or whether pain and suffering may have been awarded.

428 CHAIR COHEN: We need to look at the current statute and see whether we are expanding or restricting private rights of action.

TAPE 73, SIDE A

003 CHAIR COHEN: Currently, private parties can ask for indemnification. -We need to know how frequently that occurs.

012 CROSS: I don't know how broad a term indemnification is.

013 CHAIR COHEN: But there are no restrictions on it.

014 CROSS: As far as I am aware. -This may be a policy decision which the committee must decide.

027 CHAIR COHEN: The fact remains that we are not creating a new private party right to action.

031 SEN. BUNN: On page 4, line 44, and page 5, line 16, I propose that we change the six month confinement to three months. -I would also propose the -1 amendments (Exhibit H).

041 CHAIR COHEN: Does that time limit apply to remedial sanctions only, or to punitive sanctions as well?

044 SEN. BUNN: It's both. Page 4 concerns remedial sanctions; page 5 concerns punitive sanctions. -I would like to reduce both to three months maximum. -There are three types of contempt, and three different limits: remedial is six months; punitive is six months; and summary is thirty days.

060 CHAIR COHEN: You just want to amend remedial and punitive, and leave summary at 30 days?

062 SEN. BUNN: Yes.

064 CHAIR COHEN: That is an issue which we should save for the full committee.

065 SEN. HILL: I would also like to consider the standard of "beyond a reasonable doubt" for remedial sanctions. -Sen. Bunn is concerned with incarceration; I'd like to limit the use of that standard only to situations involving incarceration.

073 SEN. BUNN: That is consistent with my intent.

077 CHAIR COHEN: Would someone who brought a case know what they had to prove?

080 HEYNDERICKX: With this amendment, there will have to be an initial determination of whether incarceration will be needed. -This is now consistent with present law.

087 SEN. BUNN: My intent deals specifically with a higher standard for incarceration.

089 SEN. HILL: I am trying to leave case law as it is for other situations.

096 SEN. BUNN: In section 10, the bill says that "the judge may at any time refer". -The amendments say "should," but I would like them to read "shall at any time refer."

104 SEN. SHOEMAKER: Line 9 refers to sanctions other than those stipulated in paragraphs A - E. I think that would exclude any confinement.

110 SEN. BUNN: That is true. I believe that the intent is that additional incarceration is not included, but I want it specifically stated.

116 CHAIR COHEN: Adjourns hearing at 3:10 p.m.

Submitted by: Reviewed by:

Kate Wrightson Ingrid Swenson Assistant Counsel

EXHIBIT LOG:

A - Testimony for SB 48 - Dave Edwards - 1 page
B - Amendments to SB 492 - Staff - 2 pages C- Testimony on
SB 492 - Frank Brawner - 12 pages D - Amendments to SB 376 - Staff
- 5 pages E - Testimony on SB 376 - Carl Stecker - 9 pages
F - Hand-engrossed version of SB 376 - Staff - 26 pages
G - Amendments to SB 376 - Staff - 1 page H - Amendments to
SB 376 - Staff - 1 page

Senate Committee on Judiciary March 25, 1991 - Page

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SENATE COMMITTEE ON JUDICIARY

March 25, 1991Hearing Room C 7:00 p.m.Tapes 74 - 77

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Dick Springer

MEMBERS EXCUSED:Sen. Jim Bunn Sen. Jeannette Hamby Sen. Bob
Shoemaker

STAFF PRESENT: Ingrid Swenson, Committee Counsel Bill Taylor,
Committee Counsel Kate Wrightson, Committee Assistant

WITNESSES: Charlie Williamson, Oregon Trial Lawyers
Association Linda Rudnick, Oregon Trial Lawyers Association Steven
Welch, Citizen Jim Swenson, Department of Insurance and Finance John
Buhler, Oregon Association of Defense Counsel Ed Davis, Oregon
Professional Insurance Agents Association Ralph Vaughan, Recording
Industry Association of America Frank Brawner, Oregon Bankers
Association Keith Burns, Oregon Financial Services Association Jim
Markee, Oregon Collectors Association Verlyn Thomas, Professional Land
Surveyors of Oregon Tim FasSB ender, Professional Land Surveyors of
Oregon Dennis Fantz, Multnomah County Surveyor Silas Davis, Professional
Land Surveyors of Oregon Andy Blatchley, Professional Land Surveyors of
Oregon Herman Pieske, AA Surveying Services John Gervais, Construction
Industry Committee Michael Scott, Powr Rents Inc. Paula Norness,
Professional Land Surveyors of Oregon Harold Stockhoff, Professional
Land Surveyors of Oregon

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 74, SIDE A

002 CHAIR COHEN: Calls hearing to order at 7:10 p.m.

SB 491, AUTHORIZES CIVIL ACTION BY INSURED IF INSURER COMMITS SPECIFIED
ACTS, PUBLIC HEARING

021 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Submits and summarizes testimony and -1 amendments (Exhibits A & B). -There is no bad faith cause of action in Oregon. -The Department of Insurance & Finance gets 40,000 phone calls and 6,000 letters of complaint about insurance companies each year.

082 LINDA RUDNICK, OREGON TRIAL LAWYERS ASSOCIATION: Submits and summarizes

written testimony (Exhibit C). -It is hard to get carriers to deal with insured on a good faith basis. There is no avenue of accountability, and there is economic incentive for the company not to do good by the insured. -PIP benefits last a year, although arbitration cases may take two or three years to solve.

207 SEN. BROCKMAN: Your written testimony includes this sentence: "It is now the law in Oregon that insurance companies may intentionally deprive their policyholders of benefits the companies know are due under the policies and not be liable to the policyholders for actual damages policyholders suffer as a result of the companies' refusal to pay benefits." Do you have a cite?

217 WILLIAMSON: No.

218 SEN. BROCKMAN: Is this the result of lack of legislative intent?

220 WILLIAMSON: Both the Legislature and the courts. There is not a basis for recovery. The courts say you can sue to enforce the contract, so we can recover actual damages, but we can't recover what has been lost because they tried to cheat the insured.

226 SEN. BROCKMAN: "Cheat" is a strong word.

227 WILLIAMSON: Because they engaged in unlawful claims settlement practices.

229 RUDNICK: It is a fact of economic reality. It pays for the insurance companies not to pay the insured until they are forced to do so.

240 WILLIAMSON: "Cheat" may be a strong word, but look at paragraphs A - G. Most cases covered by this bill can be characterized within these paragraphs.

247 TAYLOR: Ms. Rudnick, in your examples you mentioned that all those cases were under arbitration. Did the insurance company require arbitration?

249 RUDNICK: Yes. They were all uninsured or underinsured motorist cases.

253 TAYLOR: Your clients had no option but to arbitrate.

255 RUDNICK: They were limited to that under their contracts.

258 WILLIAMSON: The contracts are prescribed by the statute.

268 STEVEN WELCH, CITIZEN: Agrees with previously cited sentence. -This bill would allow a person to sue the insurance company, but it needs to apply to third parties as well. -Relates personal experience with insurance company's refusal to pay claim. -Farmer's Insurance violated five of the criteria set in paragraphs A - G, in my case.

302 CHAIR COHEN: Were you insured?

303 WELCH: Yes.

304 CHAIR COHEN: What did your insurance company do for you?

305 WELCH: They got the name and address of the person who hit me. -After they violated paragraph A (lost wages), I brought my attorney into it; Farmer's said that they had revoked that. The adjuster never responded. -I filed complaints through the Department of Insurance & Finance.

326 CHAIR COHEN: What kind of payment did you get from your own insurance company?

328 WELCH: Nothing. The state doesn't require personal injury coverage on motorcycles, so they didn't offer me anything. -I had to do it all through Farmer's, the other person's company. -I found some statutes which would allow the Dept. of Insurance & Finance to levy fines against Farmer's, but I couldn't find anyone to do it for me. -They were dealing in bad faith. -I settled for half the claim because I needed the money.

358 CHAIR COHEN: How long did your case last?

360 WELCH: Eighteen months. -Farmer's never questioned the liability of their insured.

373 CHAIR COHEN: There was no arbitration?

377 WELCH: No. It was a straight settlement.

401 SEN. HILL: Were you asked to testify here tonight?

403 WELCH: No.

411 CHAIR COHEN: Rep. Oakley can help you draft an amendment. -Submits John Stubenvoll's statement for the record (Exhibit D).

TAPE 75, SIDE A

011 JIM SWENSON, DEPARTMENT OF INSURANCE & FINANCE: Provides background information on Insurance Division. -Unfair Claims Settlement Practice Act: based on model from the National Association of Insurance Commissioners. It is the basis for administrative action, but is not intended to be the basis for private litigation. It is used only when patterns of claim handling abuse have been found. Subsequently, it was expanded to provide authority for administrative action against individual cases. The standards of practice encouraged by the Act are basic to our industry. If an insurer violated these standards, agents would not place orders with those companies. -Each year, the Office of the Insurance Consumer Advocate publishes a consumer guide to insurance companies.

050 CHAIR COHEN: In the cases we have heard of today, it was nobody's fault. They didn't choose to be hit by someone with a particular insurance company.

054 SWENSON: We still want people to be well-informed consumers. -We handle 2500 claim-related complaints per year. One third are denials, one third dissatisfaction with offer, and one third delay. -Half of those claims involve auto insurance, another third involve medical insurance, and the rest are miscellaneous. We do not handle worker's compensation insurance. -1000 of those claims involve problems with

communication between insured and insurer; 1500 may have had a potential problem. Of that 1500, 800 were settled to the consumer's satisfaction.

154 SEN. BROCKMAN: Do you feel that, if you don't have a complete idea of the problem, that you are developing one?

157 SWENSON: There is more that we could do. We are moving in a pro-active fashion to address the issues. -The Unfair Claims Settlement Practices Act is very broad and was intended for regulatory use. -Insurance companies usually do perform at claim time; if they don't, they will lose market share.

167 SEN. BROCKMAN: Do you feel that SB 491 should be enacted?

171 SWENSON: That is a policy decision which the committee must make. We have no recommendation. -Personally, I think the insured should have recourse to appropriate economic damages. SB 491 probably extends beyond what I might consider reasonable recourse.

183 SEN. HILL: How long have you published the report which you mentioned?

184 SWENSON: The first report was published about 18 months ago.

187 SEN. HILL: How many have you sent out?

192 SWENSON: I don't know an exact number: thousands, but not tens of thousands. -It is primarily used by the industry, not for personal use.

200 SEN. HILL: In the cases where you have helped consumers, what is the largest amount you have helped them recover?

204 SWENSON: I believe that we settled one health insurance claim for close to \$300,000.

212 SEN. HILL: What is the total amount that you have recovered?

214 SWENSON: In 1990, we assisted people in collecting about \$4.2 million. That is up from \$2.7 million the year before.

222 SEN. HILL: How many complaints?

224 SWENSON: Approximately 2500 claim-related complaints.

230 SEN. HILL: That is about \$1000 per claim.

232 SWENSON: If all our recoveries were related to claims, yes.

248 SEN. HILL: Which are the hardest claims to resolve? The largest?

251 SWENSON: I would have to ask compliance officers, but that is probably right.

256 SEN. HILL: Do you think you're getting better?

261 SWENSON: Yes.

268 TAYLOR: You said that SB 491 goes too far. What would you consider appropriate?

273 SWENSON: I don't have a definitive recommendation. -The broad prescriptions for claimhandling in this act are so general that they may provide inappropriate bases for litigation.

318 JOHN BUHLER, OREGON ASSOCIATION OF DEFENSE COUNSEL: Testifies in opposition to SB 491. Submits and summarizes written testimony (Exhibit E). -This bill is about punitive damages; a decision to award those damages is not reviewable by a higher authority.

408 CHAIR COHEN: Why don't you do pre-judgment interest, instead of doing this every session? -There has to be some way to move these things through the arbitration process.

421 BUHLER: The uninsured motorist is a specialized area. I don't do auto insurance. We see that already, in property claims.

TAPE 74, SIDE B

013 SEN. HILL: Do your cases ever go to arbitration?

014 BUHLER: There is an appraisal procedure in property insurance cases, but it is not really arbitration. Appraisal resolves the loss value, not the other issues also resolved in arbitration.

024 SEN. HILL: You are just testifying about property insurance?

025 BUHLER: That is my area of specialization, but I am here to represent the Oregon Association of Defense Counsel, which does not support the bill.

031 SEN. HILL: Do you disagree with the previous witnesses, on the issue of arbitration?

033 BUHLER: Yes, 100%. My firm handles many of these arbitration cases.

045 SEN. HILL: You don't do that yourself, though.

046 BUHLER: Not personally. -Contrary to OTLA testimony, there are existing causes of action for egregious conduct in Oregon.

099 ED DAVIS, OREGON PROFESSIONAL INSURANCE AGENTS ASSOCIATION & INDEPENDENT INSURANCE AGENTS ASSOCIATION OF OREGON: Submits and summarizes written testimony (Exhibit F). -The Insurance Division's administrative rules have been administered consistently and effectively. -There is potential impact on agents and consumers, due to increased litigation costs promoted by this bill.

SB 637, CREATES CRIME OF UNLAWFUL SOUND RECORDING, PUBLIC HEARING

191 RALPH VAUGHAN, RECORDING INDUSTRY ASSOCIATION OF AMERICA: Submits and summarizes Staff Measure Summary for SB 637 (Exhibit G) and Prison Impact Statement (Exhibit H). -Reviews history of RIAA. -Losses in the US to sound piracy are \$300-400 million. We can make this assessment based on seizures, and last year we seized \$65 million of product. That is 20%-30% of the total. -Because of the rise in technology, a small enterprise can make 30,000 items a week. -This bill, as written, closes all loopholes, including future technology. -We have the support of the Motion Picture Association of America, the Video Software Dealers Association, and the National Association of Record Merchandisers.

290 CHAIR COHEN: What do pirated recordings look like?

292 VAUGHAN: They look exactly like the real thing, and are not illegal under current statute. -Oregon also doesn't regulate bootlegs. -Shows pirated recordings to committee.

328 SEN. HILL: Where did you get those?

330 VAUGHAN: I would prefer to tell you in private, for fear of jeopardizing a possible investigation.

333 SEN. HILL: Characterize the location.

335 VAUGHAN: A traditional "mom & pop" record store in Salem.

349 SEN. HILL: In the states that have this kind of law, how easy is enforcement?

353 VAUGHAN: We have received tremendous cooperation from law enforcement, in Oregon and in other states.

HB 2371, RELATING TO GARNISHMENTS, PUBLIC HEARING AND WORK SESSION

388 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: (On this bill, also represents Debtor-Creditor Section, Oregon State Bar.) -Submits hand-engrossed version of HB 2371 and -A4 amendments (Exhibits I & J). -Reviews history of bill. -Reviews intended purpose of -A4 amendments.

TAPE 75, SIDE B

019 KEITH BURNS, OREGON FINANCIAL SERVICES ASSOCIATION: Submits and reviews proposed amendments (Exhibit K).

047 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Testifies in support of bill and proposed amendments.

054 SEN. HILL: Moves to adopt the -A4 amendments to HB 2371, and the amendments proposed by the Oregon Financial Services Association, pending review by Legislative Counsel.

061 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BUNN, HAMBY, AND SHOEMAKER WERE EXCUSED.

062 SEN. HILL: Moves HB 2371, as amended, to the floor with a "do pass" recommendation.

070 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BUNN, HAMBY, AND SHOEMAKER EXCUSED.

BILL INTRODUCTION

076 CHAIR COHEN: Introduces LC draft requested by the Oregon Association of Realtors, relating to professional corporations. -Asks if committee has objections to introducing this as a committee bill.

082 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BUNN, HAMBY, AND SHOEMAKER WERE EXCUSED.

SB 654, ESTABLISHES RIGHT OF ENTRY OVER REAL PROPERTY FOR REGISTERED LAND SURVEYORS, PUBLIC HEARING

100 VERLYN THOMAS, PROFESSIONAL LAND SURVEYORS OF OREGON: Submits and summarizes written testimony (Exhibit L). -This bill does not break new ground. -It is a legislative priority of Jackson County, and we encourage you to pass it.

162 CHAIR COHEN: Why don't you want to give prior notice to landowners?

167 THOMAS: Every attempt at notice would be made.

168 CHAIR COHEN: That is not what the bill says.

169 THOMAS: The bill says it's not mandatory. We may have no idea who the owner is. -We are liable for trespass every day.

187 CHAIR COHEN: The bill doesn't even require you to try and notify the owner. -Perhaps it should say that your first obligation is to try and notify.

195 THOMAS: It says "not contingent on the provision of prior notice."

197 CHAIR COHEN: I understand that.

203 SEN. HILL: How many other states have legislation like this?

205 THOMAS: About twenty. -Four more have similar bills before their legislatures.

211 TIM FASSB ENDER, PROFESSIONAL LAND SURVEYORS OF OREGON: -Currently, in the Lane County Surveyor's Office, we have four control points where we are being denied access. -Court orders for access are very expensive.

241 SEN. HILL: Is there a difference between public and private surveying?

264 FASSB ENDER: We all perform the same tasks and must abide by the same rules.

267 SEN. HILL: Perhaps it is an effect of the employer.

270 FASSB ENDER: As a government worker, I sense more hostility toward me. -Owners don't have as many problems with private surveyors.

303 THOMAS: In surveying, surveyors are both private and public. While they may be performing a private commission, they are dealing with public monuments.

333 DENNIS FANTZ, MULTNOMAH COUNTY SURVEYOR: Testifies in support of the bill. -Submits and summarizes written testimony (Exhibit M).

385 CHAIR COHEN: I want surveyors to attempt notice, first.

392 FANTZ: The bill says that to me.

396 CHAIR COHEN: We may still fix it.

402 SILAS DAVIS, PROFESSIONAL LAND SURVEYORS OF OREGON: Testifies in support of SB 654. -We have to violate the trespass law daily.

TAPE 76, SIDE A

015 CHAIR COHEN: Enters all written testimony into record (Exhibit N).

026 ANDY BLATCHLEY, PROFESSIONAL LAND SURVEYORS OF OREGON: The statutes that concern our licensing state that we must "properly survey." -To do that, we have to get all four corners of the plot.

SB 653, PROVIDES THAT LAND SURVEYS ARE IMPROVEMENTS, PUBLIC HEARING

050 THOMAS: Reviews intended purpose of SB 653. -We have added "and land surveys" to the list of what constitutes an improvement.

071 SEN. SPRINGER: What is the problem?

072 THOMAS: Under current statute, we are only covered for things pertaining to construction or landscape architecture. -The question is always there--does the surveyor have any coverage if not performing a construction survey? -We may not know if the survey will be used for construction purposes. -We want the option to file a lien on surveys which may not directly deal with construction.

083 SEN. SPRINGER: I don't understand your business, but you have a contract and a product. Why can't you enforce through that? -Why do you have to have a lien to enforce payment?

089 THOMAS: It's common in other areas related to construction, but we don't have the right. -Tangible assets are lienable. With a land survey, we may have done lots of work, but when it is done the surveyor can only point to pins in the ground as a tangible result.

103 SEN. SPRINGER: Requests information that surveyors are not being paid.

106 THOMAS: I don't have the unpaid bills with me, but I can attest to it. -The statute is ambiguous, and I think it was inadvertent. Since we are not directly connected to construction, we don't have the lien right.

119 TAYLOR: Subsection 2 on page 2 mentions "any person who engages in or rents equipment for preparation or improvement." -How does that relate to surveyors?

124 THOMAS: Surveyors who lease equipment are also covered by this. -I don't interpret this as relating only to those who rent equipment; I see it as relating both to those who own and those who rent their equipment.

131 CHAIR COHEN: The matter of rental may bring extra concerns. Perhaps you don't want to deal with it.

141 THOMAS: That language was put in by Legislative Counsel. This is not the way we submitted the bill for drafting.

149 DAVIS: Relates incident when he was not paid, because a survey is not an improvement.

187 SEN. HILL: What about hiring an appraiser? Do appraisers have lien rights?

201 THOMAS: I do not know how they are covered. A number of statutory sections deal with liens for different professions. -We are somewhat attached to the construction lien; unless we construct another section that applies only to surveyors, we are only partially covered.

213 DAVIS: I am affiliated with a civil engineering firm. I have always had to file liens under an engineering improvement, since they are covered and we aren't.

224 SEN. HILL: Is this true for architects?

225 THOMAS: Yes.

231 HERMAN PIESKE, AA SURVEYING SERVICE, INC.: I have had many problems being paid for lot surveys since they are not deemed improvements. -Our only recourse is small claims. I have lost about \$6,000 that we could

not collect, and \$7,000 that we have written off because it was deemed uncollectable.

273 BRAWNER: I support surveyors getting their money, but we oppose SB 653. -I am uncomfortable calling a survey an improvement. -Surveyors are already covered under sections 2, 5, and 6. To treat surveyors differently than architects would upset the balance in the statute. -Appraisers do not have lien rights. -In the two pages of SB 653, 35 pages of construction lien statutes would be upset.

316 CHAIR COHEN: Maybe line 20 needs a comma after "land surveyor."

319 BRAWNER: Also look at line 25. We would support a comma.

331 JOHN GERVAIS, CONSTRUCTION INDUSTRY COMMITTEE: Opposes SB 653. -Submits and summarizes written testimony (Exhibit O).

342 MICHAEL SCOTT, POWR RENTS INC. & OREGON EQUIPMENT RENTAL ASSOCIATION: Testifies in opposition to SB 653. -Submits and reviews written testimony (Exhibit P). -Land surveyors have a technical right to file a lien, if the land is prepared for improvement or if improvement occurs. -This bill would change the verb "survey" into a noun. -A tangible asset is needed, since that is what is subject to the lien.

TAPE 77, SIDE A

025 PAULA NORNESS, PROFESSIONAL LAND SURVEYORS OF OREGON: Testifies in favor of SB 653. -Many of our surveys are done in conjunction with planning and site reviews, which are done prior to construction. Sometimes we survey things that are never intended to be built. -We produce a map, which is our product. -My legal counsel has advised me not to use the construction lien.

051 HAROLD STOCKHOFF, PROFESSIONAL LAND SURVEYORS OF OREGON: A property survey is not a construction survey. A property survey sets boundaries which are needed for a construction survey that may or may not be done.

064 SEN. HILL: If a potential buyer wants to survey my property and then decides not to buy my land, would I be liable for the lien?

074 STOCKHOFF: There is generally an agreement, prior to the survey, on who will pay for it.

077 SEN. HILL: I wouldn't pay for it.

078 STOCKHOFF: Then I wouldn't do it.

079 CHAIR COHEN: If you work for the non-owner, you wouldn't have access to the lien?

081 STOCKHOFF: You would leave yourself open to not getting paid.

083 NORNESS: I usually get a contract from the person ordering the survey. The owner must be notified that a survey will take place, and they have to agree as well. -If the owner agreed to the survey, then I could file a lien against the property because I had a signed contract.

092 TAYLOR: Do you ever use retainers?

093 NORNESS: Yes, unless it is an extremely small project.

110 SEN. HILL: I am not familiar with the lien process. -What is this delicate statutory balance cited by Mr. Brawner?

121 SCOTT: The balance involves these issues: who is entitled to the lien; why are they entitled to the lien; and who do they have to tell about it?

157 CHAIR COHEN: The issue appears to center on construction, and whether improvements are the same thing as construction.

206 TAYLOR: If they were given a lien that was not a priority lien but that would take effect on the date of filing, outside the construction lien area, would that cause a problem for prime rate lenders or title companies?

210 BRAWNER: If the lien had no relation to the construction, it would operate the same way other liens operate now.

214 TAYLOR: So you would have no problem with that.

215 BRAWNER: Not at all.

230 CHAIR COHEN: Adjourns hearing at 9:48 p.m.

Reviewed by: Reviewed by:

Bill Taylor Ingrid Swenson Counsel Counsel

Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A	-	Testimony on SB 491 - Charlie Williamson - 16 pages	
B	-	Amendments to SB 491 - Charlie Williamson - 1 page	
C	-	Testimony on SB 491 - Linda Rudnick - 3 pages	
D	-	Testimony on SB 491 - Jon Stubenvoll - 2 pages	
E	-	Testimony on SB 491 - John Buhler - 12 pages	
F	-	Testimony on SB 491 - Ed Davis - 3 pages	G - Staff
		Measure Summary on SB 637 - Ralph Vaughan - 1 page	H - Prison
		Impact Statement for SB 637 - Ralph Vaughan - 1 page	
I	-	Hand-engrossed version of HB 2371 - Frank Brawner - 7 pages	
J	-	Amendments to HB 2371 - Frank Brawner - 1 page	
K	-	Amendments to HB 2371 - Keith Burns - 1 page	
L	-	Testimony on SB 654 - Verlyn Thomas - 26 pages	
M	-	Testimony on SB 654 - Dennis Fantz - 1 page	
N	-	Testimony on SB 654 and SB 653 - Chair Joyce Cohen - 6 pages	
O	-	Testimony on SB 653 - John Gervais - 1 page	
P	-	Testimony on SB 653 - Michael Scott - 3 pages	