

r leiuwues He~rd HB 2382 (PUB) HB 2530 (PUB) HB 2376 (PUB) HB 2593 (PUB)
SB 1212 (WRK) SB 1142 (WRK) SB 1054 (WRK) SB 404 (WRK) SB 7S7 (WRK) SB
945 (WRK) IIB 2594 (PUB) SB 957 (WRK)

SENATE COMMITTEE ON THE JUDICIARY

May 10, 1991 Hearing Room C 1:10 p.m. Tapes 155 -157
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 BILL TAYLOR, COMMITTEE COUNSEL MARK THORBURN, COMMITTEE ASSISTANT

WITNESSES: THE HONORABLE BOB SHIPRACK, STATE REPRESENTATIVE THE
HONORABLE DOROTHY BAKER, DISTRICT COURT JUDGE THE HONORABLE MARK
GARDNER, DISTRICT COURT JUDGE STEPHEN MOORE, OREGON STATE BAR JUDICIAL
ADMINISTRATION COMMITTEE BRUCE ANDERSON, OREGON STATE BAR INTERNATIONAL
LAW SECTION JAMES WHITTY, ASSOCIATED OREGON INDUSTRIES WIN CALKINS,
OREGON STATE BAR UNIFORM STATE LAWS COMMITTEE CHARLES WILLIAMSON, OREGON
TRIAL LAWYERS ASSOCIATION DARLEEN COGBURN, LEGISLATIVE ASSISTANT TO
REPRESENTATIVE VANLEEUEWEN CONNIE ELKINS, OREGON MEDICAL ASSOCIATION JIM
HUNTER, MOTOR VEHICLES DIVISION Seltate Judki~ry Comm; - e May 10, 1991-
Page 2

RANDY FRASER, MOTOR VEHICLES DIVISION PAUL SNIDER, ASSOCIATION OF OREGON
COUNTIES BILL LINDEN, STATE COURT ADMINISTRATOR

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 155, SIDE A

002 CHAIR COHEN: Calls the meeting to order at 1:10 p.m.

HB 2382 006 CHAIR COHEN: Let's take 2382. 015 BRUCE ANDERSON, OREGON
STATE BAR INTERNATIONAL LAW SECTION: Supports the bill. Paraphrases
Exhibit A. 075 SEN. SHOEMAKER: This does not create a new cause of
action?

077 ANDERSON: That is correct.

078 SEN. SHOEMAKER: Has concern about reference to "threatened injury"
in section three of the bill.

081 ANDERSON: Those are typically injunctive types of relief where the
court is asked to stop it from occurring in advance.

086 SEN. SHOEMAKER: Can see some lawyer arguing that the bill may bring
an action for a threatened injury. 089 ANDERSON: Section five makes
clear that the law to be applied in the case is the law of Oregon as it
presently exists. There isn't anything in the bill that will create a
new interpretation of when an injunction is available. Where such an
injunction is available is very limited.

099 SEN. SHOEMAKER: To what extent has this been adopted? 101
ANDERSON: Lists adopting jurisdictions. 114 SEN. HILL: You mentioned
the Columbia River as being a source of pollution that would come to
Oregon; what about us polluting their environment? . There ~uter con~in

material 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 transcript. Senate Judiciary Committee, May 10, 1991 - Page 3

120 ANDERSON: Discusses the possibilities. 131 SEN. HILL: Were any Oregon business interest involved when you proposed this legislation?

134 ANDERSON: Most of the lawyers in the international law section are business lawyers.

137 SEN. HILL: Were there mainly environmental concerns?

139 ANDERSON: No. The principal reason was the amount of controversy that has developed about this hole in jurisdiction. When the incidents happen, though they don't often do (but they're more and more likely), we need to be prepared so that someone injured has an effective forum to seek relief.

- Discusses jurisdictional implications of the bill.

170 CHAIR COHEN: Thanks witness; calls Mr. Whitty to testify.

176 JAMES WHITTY, ASSOCIATED OREGON INDUSTRIES: Don't have any answers, only questions. How about diversity of citizenship under federal court? Doesn't know how Canada fits in. We're talking about having more cases brought in Oregon.

200 CHAIR COHEN: Are you also concerned that we might be allowing an Oregon business to be sued by foreigners? 204 WHITTY: Yes; this does open a potentially big increase in the number of actions.

210 CHAIR COHEN: Asks witness to circulate questions and get in touch with Mr. Anderson. Invites Mr. Anderson to respond.

221 ANDERSON: Happy to work with Mr. Whitty.

- These bills have not produced a proliferation of cases.

227 CHAIR COHEN: But you probably don't have much in the way of reciprocal agreements in line to-date anyway.

230 ANDERSON: Until you have that in place, the plaintiff isn't going to have any opportunity to come to Oregon anyway.

239 CHAIR COHEN: Under this, could Oregon sue Idaho because Idaho has implements some sort of salmon management plan that detrimentally affects Oregon industries?

245 ANDERSON: Even without this legislation, that could be done. 248 CHAIR COHEN: It's primarily international then?

These minutes contain material 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 transcript. Senate Judiciary Committee, May 10, 1991 - Page 3

249 ANDERSON: Yes. And pollution from distant states.

259 SEN. HILL: There were three work sessions on this bill in the House

side; there might be some information on the House side.

262 CHAIR COHEN: Thanks witnesses.

HB 2530

263 CHAIR COHEN: House Bill 2530; invites Representative Shipraclc to testify.

267 REPRESENTATIVE BOB SHIPRACK: Paraphrases Exhibit B and explains the bill and underlying problem.

- There may be typographical error in the bill; explains.

386 CHAIR COHEN: We'll ask Bill to take a look at it.

- Asks if anyone else would like to speak to the bill.

237 6

393 CHAIR COHEN: 2376. 398 WIN CALKINS, OREGON STATE BAR UNIFORM STATE LAWS COMMITTEE: Supports the bill and paraphrases Exhibit C.

449 SEN. SHOEMAKER: Section 7 speaks of holders owning their interests as tenants in common; stock can be owned as tenants in common?

457 CALKINS: They can now.

TAPE 156, SIDE A

022 SEN. SHOEMAKER: Concern of what happens when no baneficiary survives the death of all owners; does that mean a tenancy in common can become a right of survivorship?

026 CALKINS: No; that refers only to payment to death baneficiaries as tenants in common.

032 SEN. SHOEMAKER: Just wanted to make sure that stock can be held in common.

- According to the bill, if there are no beneficiaries, the security belongs to the estate of the last to die of all multiple owners; if that stock is owned in common, it wouldn't go by survivorship, but by undivided interests. Does this say that the tenancy in common is converted to a survivorship situation?

040 CALKINS: You need to go back to the definition of baneficiary and then go through section three. Explains further. Sen~te Judici~r~ Committee Ma, 10, 1991Puo 5

061 SEN. SHOEMAKER: What you're saying is that the law doesn't really apply to stock held in common?

062 CALKINS: That's right. Explains what tbe drafters intended.

064 SEN. HILL: When there is a conflict between a will and this procedure, which prevails?

066 CALKINS: Discusses Oregon case law on this.

075 SEN. HILL: If there is a will that says that all of my stock goes somewhere else, what would the person do if the will is in conflict with

the bill? Would I have to be concerned about going back and changing the form? 084 CALKINS: Yes. Explains. 090 SEN. HILL: I would assume that the latest expression of my intentions would control and it's important that people know that they have to come back and change. It sounds like that what you put on the form will prevail. 096 CALKINS: It depends on the circumstances. Explains. 104 SEN. HILL: So when we're taking a course to keep our license, this will be included in that for estate planning? Can see how you'd forget about stocks that you've held for a long time. 110 CALKINS: That frequently happens to bank accounts. Explains what happens to bank accounts. 116 SEN. BROCKMAN: Does this go one step further than joint tenants with right of survivor? 119 CALKINS: In stock certificates, yes. 120 SEN. BROCKMAN: How new is this? 122 CALKINS: Gives history. 126 SEN. BROCKMAN: This is an option? 127 CALKINS: Yes. 128 SEN. BROCKMAN: What if the stock is in street name? 129 CALKINS: This doesn't cover that. - Explains another problem the bill addresses. 138 CHAIR COHEN: Any other questions?

lberc minutes contain materials which paraphrase and/or sunu~urlzc ~ msde durilu this _on. Only text encloeed in quotation marks report c spealcer's exacl words. For complete contenti of thc procedinp, please refer to thc tapea. 10, 1991 - Page

TAPE 156 AHB 2593 141 CHAIR COHEN: Invites witnesses to testify.

147 CHARLES WILLIAMSON, OREGON TRIAL LAWYER ASSOCIATION: Supports and explains the bill. Had amendments drafted (Exhibit D); explains amendments. Explains need for the bill; cites example. 196 SEN. SHOEMAKER: What loss does the legal guardian suffer? 199 WILLIAMSON: It's not crucial for the bill, but there is a need for it. Relates to story he told. 209 SEN. SHOEMAKER: She was covered by virtue then of being the step-mother. - You don't feel that's a critical part of the bill? 211 WILLIAMSON: It's not a critical part of the bill. Our concern is primarily the stepparent. 214 CHAIR COHEN: Invites Ms. Cogburn and Ms. Elkins to testify. 219 DARLEEN COGBURN, LEGISLATIVE ASSISTANT TO REPRESENTATIVE VANLEEUUVEN: Tells the story behind the bill. Explains why legal guardian is included in the bill. 248 SEN. HAMBY: Concerned that not all aunts, uncles, etc., are, in fact, legal guardians. According to the definition in the bill, they would have to be 252 COGBURN: Appointed by the court. 254 CONNIE ELKINS, OREGON MEDICAL ASSOCIATION: Have concerns about the bill. Explains those concerns. 287 SEN. SHOEMAKER: What would the pecuniary loss be of the step-mother who doesn't have a relationship with the child? 290 ELKINS: That's my question too. 291 SEN. SHOEMAKER: She doesn't have a case if there are no damages. 292 ELKINS: But they would, theoretically, be able to make a case that they anticipated a relationship. 297 CHAIR COHEN: Asks Mr. Williamson to respond. 297 WILLIAMSON: In the amendments, you have to be married to the custodial parent.

- Senate Judiciary Committee March 10, 1991 - Page 7

299 CHAIR COHEN: That does help. 300 WILLIAMSON: And a will doesn't dispose of the proceeds of a wrongful death case. 305 SEN. HILL: Is there some particular concern from the medical community? 308 ELKINS: Not that I know of; was just asked to review the bill and see if we had any concerns. 312 CHAIR COHEN: Anything else?

SB 1212 316 CHAIR COHEN: SB 1212; this will be a work session. Invites witnesses to testify.

327 JIM HUNTER, MOTOR VEHICLES DIVISION: Identifies other witnesses.

333 CHAIR COHEN: Asks for summary of the bill. 336 HUNTER: Explains the bill.

- Defers to Randy Fraser for more details about the bill's provisions.

380 RANDY FRASER, MOTOR VEHICLES DIVISION: Paraphrases Exhibit E. 412 SEN. SPRINGER: So everyone in Multnomah County is going to have to come down to Salem for a hearing?

416 FRASER: We have hearings officers based in Portland.

- Explains intent of giving the division authority to hold hearings within 100 miles of person's residence.

429 SEN. SPRINGER: If saving costs is all we care about, can see every hearing in Salem coming in the next budget. 436 FRASER: We do have facilities and regional locations.

439 SEN. SPRINGER: I understand that, but if cost is driving this thing, I know what's going to happen next session. . - 447 SEN. BROCKMAN: I didn't know the 100 mile provision was in there. 450 CHAIR COHEN: You have a 100 mile provision now for what? 452 FRASER: We have the 100 mile provision now for implied consent hearings and vehicle cancellation hearings.

. These minute~ contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Judiciary Committee March 10, 1991- Page 8

460 CHAIR COHEN: So you have 65X - 70% now.

463 FRASER: Correct.

- Continues paraphrasing Exhibit E. TAPE 155, SIDE A

015 FRASER: Continues paraphrasing Exhibit E. 057 SEN. SPRINGER: Section nine is out? 060 FRASER: That's correct. 064 CHAIR COHEN: This bill did get written up in Ways and Means. 068 FRASER: Continues paraphrasing Exhibit E. 111 SEN. SHOEMAKER: You're moving beyond section 17 at this point? 113 FRASER: Yes. 114 SEN. SHOEMAKER: Section 17 says that the court can conduct a review of the division's cancellation order without a jury and review shall be limited to the notice received. You don't mean the petitioner can't bring in whatever evidence that he has to counter that, do you? 120 FRASER: That's what the agency would be relying on to establish that a person is subject to it; there could be relief anytime the individual is able to demonstrate that there has been error.

123 SEN. SHOEMAKER: Wonders if we should make it clear that review of the division's evidence would be limited to these things and there isn't any constraint on the petitioner's evidence. 128 CHAIR COHEN: Asks Bill Taylor if he's got that.

129 BILL TAYLOR, COMMITTEE COUNSEL: I'll come up with something.

131 FRASER: We'll look at that.

- Continues paraphrasing Exhibit E. - Favor passage of the proposed amendments (Exhibit F). 151 CHAIR COHEN: Asks Sen. Brockman if he has questions. 152 SEN. BROCKMAN: Questions whether they'll really fire seven people. Sautte Jud~dar~ 1 May 10, 1991- Page

155 CHAIR COHEN: What does it cost to enforce the driving laws in this state?

162 HUNTER: The Governor has recommended around \$98 million for a two year period; not all of that is dealing with problem drivers. We can get you the figures and break out how much deals with problem drivers. 173 FRASER: The hearings budget is a little over \$5 million for the biennium. 175 HUNTER: Explains what the hearings budget is for. 178 CHAIR COHEN: Five? 179 FRASER: A little over \$5 million for the biennium. 180 HUNTER: That isn't the total mount; explains why. 186 SEN. SPRINGER: Was it in '85 that we took the judges out of revocations? 188 FRASER: January, 1984. 190 SEN. SPRINGER: We took judges out and where assured that the hearing would provide adequate due process. Now, we're saying that we're going to take the hearing away and go to an administrative process. 196 CHAIR COHEN: We're down to about 35% of the people who can get a driver's license. 200 SEN. SPRINGER: We'll have about 50% of the people driving without licenses or insurance. 203 SEN. HILL: Did you do any pilot projects? 204 FRASER: We have tested it out, but we do what is described in the statute as limited hearings at this time. This bill is an attempt to address those people who've already gone through an adjudication and have had a conviction occur and, as a result of that, Motor Vehicles is required to take action. 212 SEN. HILL: And you feel all the due process requirements are met through these procedures? 215 FRASER: The bill has been reviewed by the Department of Justice. - People will have the opportunity to raise issues. This process will remain as a hearings function with trained personnel doing the review. 225 HUNTER: Gives example of how the hearing process now works. 250 SEN. SPRINGER: Under this bill, how would that be changed?

Ithoro minutes contain materials which paraphrase and/or summarize rtatemorar made durins tHB resuon. Only toxt enclosed in quotation mllrh report a rpoakortr exact wordc. For complete contents of the proca ~ings, please refer to the tapes. Senate Judiciary Commh~ee Ma~ 10, 1991 - Page 10

254 FRASER: Explains how the hearing process would be changed.

263 HUNTER: Explains further changes.

267 SEN. SHOEMAKER: If the administrative hearing results in an affirmation of the suspension, is that the end of the line?

271 FRASER: The suspension would be going into effect and would continue until the person meets the requirement and the condition. ·
274 SEN. SHOEMAKER: Is there any recourse from the administrative review? 275 FRASER: Yes; it would be taken to the Circuit Court.
278 SEN. SHOEMAKER: And that's true of any administrative review?
279 FRASER: That is the process that is set up. 281 CHAIR COHEN: We'll let this sit for a day or two.

SB 1054

289 CHAIR COHEN: Need approval from committee for 1054. Summarizes

the bill. There was an oversight in the original bill when we sent it out. - Are there any objections to reconsidering the bill?

303 MOTION: Sen. Hill moves for the reconsideration of the bill.

305 CHAIR COHEN: Calls for objections; hearing none, so ordered. - We'll have that scheduled for next Monday.

SB 1142

309 CHAIR COHEN: 1142.

- Discusses scheduling of next Monday's hearing.

- There are technical amendments.

329 INGRID SWENSON, COMMI III EE COUNSEL: Explains the dash three amendments (Exhibit G).

355 SEN. SPRINGER: Think they'll license our jails as health care facilities?

356 CHAD: COHEN: Police cars; then put them in the jail and its their responsibility.

There mmutes contain materials which paraphrase aad/or rummanze rtatementa made during dlir re~lon. Only text cncloscd in quotation marlu report a rpeaker'r exact worda. For complete conter~ of the procee ings, pleaae refer to the taper Senate Judiciary Committee Ma' 10, 1991
- P - e 11

358 SEN. BROCKMAN: They're going to be taxing them anyway.

360 SWENSON: It's limited to the injuries that will be occurring before that time. - Further explanation of the amendments.

389 CHAIR COHEN: That was part of Sen. Hill's question.

392 SWENSON: Other than that, these simply include the amendments that acted upon by the committee at the last hearing. 396 CHAIR COHEN: Any objections to the dash three amendments? Hearing none, so ordered.

- Fills Sen. Bunn in on committee's actions.

406 SEN. SHOEMAKER: Did these amendments add an emergency clause?

408 SWENSON: Yes. 411 SEN. SHOEMAKER: He sees it.

412 CHAIR COHEN: The dash three amendments include all the things that we included at the time we passed the bill out as well as our conceptual amendments.

419 PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: If an injury occurs, even if the symptoms don't appear until later, they'll still be covered by the account. Gives example.

434 CHAIR COHEN: This bill goes to Ways and Means?

435 SWENSON: Yes.

436 MOTION: Sen. Hill moves SB 1142 as amended to Ways and Means with

a "do pass" recommendation. 442 VOTE: Motion passes by vote of 6 to 1; Sen. Springer voting no. SB 404 453 CHAIR COHEN: Let's move to SB 404. 471 TAYLOR: There are amendments to the bill. 472 CHAIR COHEN: We have objections (Exhibit H) from the 476 SEN. BROCKMAN: Do the dash four (Exhibit I) take the place of the dash three (Exhibit J)? Senate Judiciary Committee Meeting, 10, 1991- Page 12

477 TAYLOR: They take the place of everything. . 479 CHAIR COHEN: Explains that the bill is being used as a vehicle for some judges.

- Have a letter from the Ethics Commission who oppose the dash three amendments; don't know their position on the dash four.

496 SEN. SHOEMAKER: Notes that these letters deal with the dash three amendments.

498 CHAIR COHEN: Not considering anything except what's in front of us.

TAPE 156, SIDE B

039 THE HONORABLE DOROTHY BAKER, DISTRICT COURT JUDGE: Explains the dash four amendments. There is a concern whether judges may set fees for performing weddings. Explains current practice. The Ethics Commission position works in theory, but not practically; explains why. Having judges to perform weddings is important to a lot of people. The amendments codify what's already happening.

099 STEPHEN MOORE, OREGON STATE BAR JUDICIAL ADMINISTRATION COMMITTEE: Supports the amendments. This is an essential service to the public; explains. 110 SEN. HILL: Understand that the Ethics Commission is not concerned about remuneration, but that they just don't think that you should set a definite charge. 116 BAKER: It is a dance that we're suppose to go through. No judge in Multnomah County now willing to do weddings. Explains the dance and why it doesn't work. 153 SEN. SHOEMAKER: All elected officials are subject to the law that says we shall not use our office for financial gain. Honorariums are permitted if not set in advance. If someone asks you what a customary honorarium is, you can tell them. 159 BAKER: No, the OSEC says we can't tell them what a customary honorarium is or even that we would expect an honorarium. 162 SEN. SHOEMAKER: Any reason why the judges should be treated differently in this respect? 163 SEN. SPRINGER: Then let us perform weddings. 165 CHAIR COHEN: We want to avoid that. - Asks Judge Gardner to testify. 167 THE HONORABLE MARK GARDNER, DISTRICT COURT JUDGE: Explains to Sen. Shoemaker that, historically, marriage fees have been treated differently. Contrary to the letter about the dash three amendments, doubts that honorarium includes marriage . Senate Judiciary Committee Meeting May 10, 1991 page 13

fees; explains. The legislature has approved marriage fees for justices of the peace. Inference that there are a small number of judges that are filling their pocket with marriage fees is incorrect.

- Explains what the amendments do.

237 SEN. SPRINGER: Would it be your impression that if a judge received this as income, it would be treated and reported as income for tax purposes. 240 GARDNER: Yes. 244 SEN. SPRINGER: Are you aware of judges who've accepted appointments to teach and are compensated? 247 GARDNER: Know of several who do. 250 SEN. HILL: Was that your picture in the paper? 251 GARDNER: Yes. 256 CHAIR COHEN: Judge

Gardner is the former chair of the House Judiciary Committee. - Would like to take this up next Monday. - We do need to clarify the situation.

269 GARDNER: We'd appreciate any kind of clarification. Will not be present on Monday, but would appreciate it if some of the questions I've raised are presented to the Executive Director of the Ethics Commission; I'd be interested in his answers. 275 CHAIR COHEN: Maybe you can informally call him. 277 SEN. HILL: Does the Judicial Department has a position? 283 BILL LINDEN, STATE COURT ADMINISTRATOR: The Department does not have a position on the amendments. Will be taking them up with Chief Justice Peterson. 290 CHAIR COHEN: You'll either have it as part of the job of a judge or be in conflict with the Ethics
293 LINDEN: Yes.

294 CHAIR COHEN: We need to make some decision.

295 LINDEN: I agree. There are some questions that can be posed to the Ethics Commission that would add clarity to the issue.

302 GARDNER: None of us want to be in a fight with the Ethics Commission. Senate Judiciary Committee Me, 10, 1991 - Page 14

SB 757 306 CHAIR COHEN: Is there any interest in , 57? 308 SEN. S BROCKMAN AND HAMBY: Let's do it. 310 CHAIR COHEN: Sen. Bunn? Or do you want to wait? 311 SEN. HILL: We can go ahead and get Sen. Bunn. Judge Lipscomb wants to give some information. 317 CHAIR COHEN: Wants to raise a couple of issues first. - There are dash four amendments.

322 TAYLOR: Explains the dash two, three, and four amendments (E:hibits K, L, and M). 334 CHAIR COHEN: We have two issues before us; having the State Court Administrator looking at 340 SEN. SPRINGER: Ready for a motion on the dash four? 341 CHAIR COHEN: Yes. - This bill goes to Ways and Means. - Invites Bill Linden to testify. 348 LINDEN: Our solution is slightly different than dash four. Rather than set these requirements in statute, let's just do it. But if the issue is individual judges, 360 CHAIR COHEN: I think it is. 361 LINDEN: Then let's deal with those few judges and that means a more readily accessible and confidential process for getting complaints to the Chief Justice's attention. - If lawyers and others who have concerns about individual judges want a more identifiable system about how they can make their complaints 374 CHAIR COHEN: It's not only lawyers, but judges who work real hard who have problems with judges who don't. It's very difficult for them to raise the issue with the Chief Justice. 392 LINDEN: We could set in place a confidential method for a judge to bring problems to the Chief Justice. That same process can be made available to lawyers. 403 CHAIR COHEN: People have said that even if you try to approach individual judges, the response is "Thank you, but I'm independently elected..

- Senate Judiciary Committee May 10, 1991 - rue IS

415 LINDEN: A judge could make that response. These problems rarely arise in small districts. In multijudge counties, peer pressure is more effective than the Chief Justice. There is a need for a safe, confidential process for complaints, but not certain having every judge fill out reports is going to improve the process. 443 SEN. SHOEMAKER: Isn't there another bill that gets at the same thing. 445 CHAIR COHEN: I don't think so. 449 SEN. SHOEMAKER: We had something on our desks this morning. t 453 CHAIR COHEN: This is it. 455 SEN. HILL: We do have someone here from the Bar. Wants to hear from him. TAPE 157, SIDE A 013 MOORE: Gives history about what his committee is trying to

do.

- We're concerned about collecting statistics so, in 1993, you would be able to look at the productivity of a county when they come in asking for another judge. Hopes this can be done without passing legislation. We're against keeping time sheets. 046 SEN. HILL: So you are not supportive of any legislation, but are supporting of some type of record keeping? 049 MOORE: Supports some type of record keeping. The Judiciary should be given an opportunity to suggest to you how that is going to be done.

053 SEN. SPRINGER: It's tough to determine work performance of the courts, particularly as to new judgeships. A system doesn't exist to evaluate performance. Thinks the dash four amendments are a step in the right direction. 068 MOTION: Sen. Springer moves the dash four amendments.

069 SEN. HILL: Not going to support the amendments. Explains why.

- Not clear on what Mr. Linden's office is willing to do.

095 LINDEN: I'm suggesting to set up a process whereby anyone could, with confidentiality, raise concerns that they have about individual judges. We can also collect information on judicial availability for new judgeship determinations.

109 SEN. HILL: They should be given the opportunity to do that.

112 VOTE: Motion fails; 3 aye votes to 4 no votes with Sen.s Brockman, Bunn, Hill, and Chair Cohen voting no. Senate Judiciary Committee, 10, 1991 - Page 16

117 CHAIR COHEN: Our no votes indicate that you need to get on with this and that we're serious.

121 LINDEN: Thank you.

122 CHAIR COHEN: We have the dash two amendments. Already have had a lot of debate and discussion. Willing to hear from Judge Lipscomb.

129 SEN. HILL: I'm getting the signals that hearing from Judge Lipscomb won't help. Information has been submitted by the judge (Exhibit N).

133 MOTION: Sen. Hill moves the dash two amendments.

137 SEN. SHOEMAKER: Going to vote against the amendment; explains why.

144 SEN. HAMBY: Going to vote against amendment; explains why.

150 SEN. BUNN: Don't know why we'd want to give them more data when they don't use what they have.

155 SEN. HILL: We're in a situation where I think there is at least the possibility that there was an improper delegation of authority to nonelected people.

177 CHAIR COHEN: General comments.

180 VOTE: Motion fails; 2 aye votes to 5 no votes with Sen.s Brockman, Hamby, Shoemaker, Springer, and Chair Cohen voting no.

185 MOTION: Sen. Hamby moves the dash three amendments.

186 CHAIR COHEN: I think you want to move the bill.

187 SEN. HAMBY: That's right.

188 SEN. HILL: Serves notice of a possible minority report.

189 CHAIR COHEN: O.K.; I don't think we can do a minority report on a bill going to Ways and Means.

193 MOTION: Sen. Hamby moves SB 757 un mended to Ways and Means with a "do pass" recommendation.

196 VOTE: Motion passes; 5 aye votes to 2 no votes.

SB 945

201 CHAIR COHEN: That goes to Monday.

Thcr,e rninuter coDtaio rnateriala which paraphrare and/or rumrnarlze rtaterneritr made during thir ses~ion Only text enclosed in quotation marks report a rpeaker'r exact wonb Por complete contentr of the proceedinar, plesse refer to the tapea _ ~ =~- ~ Senate Judiciar~ Committee Ma, 10,1991- Page 17 SB 2594

206 CHAIR COHEN: Apologizes to witnesses.

SB 957

208 CHAIR COHEN: Asks witnesses to return.

- Adjourns the meeting at 3:22 p.m.

Submitted by: Bill Taylor Committee Assistant
Reviewed by: Mark Thorburn Committee Counsel

EXHIBIT LOG: A - Testimony on HB 2382 - Bruce Anderson - 18 pages B - Letter from Representative Walden re: HB 2530 - Representative Shiprack - 1 page C - Testimony on HB 2376 - Win Calkins - 2 pages D - Amendments on HB 2593 - Charles Williamson - 1 page E - Testimony on SB 1212 - Randy Fraser - 4 pages F - Amendments to SB 1212 - Committee Staff- 13 pages G - Amendments to SB 1142 - Committee Staff - 4 pages H - Testimony on SB 404 - Pat Hearn - 3 pages I - Amendments to SB 404 (dash four) - Committee Staff- 3 pages J - Amendments to SB 404 (dash three) - Committee Staff- 2 pages K - Amendments to SB 757 (dash two) - Committee Staff- 1 page L - Amendments to SB 757 (dash three) - Committee Staff- 1 page M - Amendments to SB 757 (dash four) - Committee Staff- 1 page N - Testimony on SB 757 - Judge Lipscomb - 4 pages EXHIBITS DISTRIBUTED TO COMMITTEE BUT NOT REFERRED TO DURING HEARING O - Testimony on HB 2594 - Connaught Laboratories - 4 pages P - Amendments to SB 945 - Committee Staff- 6 pagers

There tnutcs contein kriela which paraphrase and/or sutnnstlze
rtakmenb made duriqq this scNion. Only text enclorod la quotation marh
report a spellker's exact worde. For completc content of tbe procccdi
IgS, plc sc rcfcr to thc taper.