

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 510, PH & WS HB 2125, PH HB 2254, PH & WS HB 2079, PH & WS HB 2250, PH & WS HB 2662, PH & WS HB 2668, PH HB 2377, PH SB 775, PH

SENATE COMMITTEE ON JUDICIARY

May 13, 1991Hearing Room C 1:15 p.m.Tapes 158 - 160

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

MEMBER EXCUSED: Sen. Peter Brockman

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

WITNESSES: Eva Kutas, Mental Health & Developmental
Disabilities Division Steve Haas, Real Estate Division John Stanley,
Oregon Land Title Association Aleta Lavandier, Interstate Trustee
Services Corporation Alfred Rasmus, Oregon Land Title Association Pat
Ritz, Oregon Land Title Association Janet Newman, Division of State
Lands Marcella Easley, Division of State Lands Lawrence Foster, Acting
State Health Officer Gary Oxman, Multnomah County Health Officer
Representative Kevin Mannix Kate Brown, Women's Rights Coalition Maurice
Russell, Debtor-Creditor Section, Oregon State Bar

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TAPE 158, SIDE A

002 CHAIR COHEN: Calls hearing to order at 1:24 p.m.

SB 510, ESTABLISHES BILL OF RIGHTS FOR ADULTS WHO ARE MENTALLY ILL OR DEVELOPMENTALLY DISABLED, PUBLIC HEARING AND WORK SESSION

019 TAYLOR: Submits -A5 and -A6 amendments, and hand-engrossed version of bill (Exhibits A, B, & C).

080 SEN. HAMBY: Private rights of action have also been deleted.

084 CHAIR COHEN: I assume the Mental Health Division investigates any alleged abuses.

089 EVA KUTAS, MENTAL HEALTH & DEVELOPMENTAL DISABILITIES SERVICES

DIVISION: Yes. We have administrative rules that detail different kinds of abuse and procedures for each.

101 CHAIR COHEN: How often do you refer cases to local law enforcement?

102 KUTAS: It depends on our relationship with local police and sheriffs.

110 SEN. HAMBY: Moves to adopt the -A5 and -A6 amendments to SB 510, as shown in the hand-engrossed version of the bill.

116 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SEN. BROCKMAN WAS EXCUSED.

117 SEN. HAMBY: Moves SB 510, as amended, to the floor with a "do pass" recommendation.

122 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BROCKMAN EXCUSED.

HB 2125, PROVIDES FOR LICENSING OF ESCROW CLOSER, PUBLIC HEARING

133 STEVE HAAS, REAL ESTATE DIVISION: Submits and summarizes written testimony (Exhibit D).

303 SEN. SHOEMAKER: If the purpose of the surety bond is to ensure safety, then how relevant is its effect on competition? It should protect the consumer, not the provider.

312 HAAS: We translate the amount of risk to a graduated rate for bond deposit requirements.

319 SEN. SHOEMAKER: Is there in fact a greater risk with greater volume?

322 HAAS: We assume a higher risk at the low end, with the waiver. The high end has the cap, and we don't go beyond that. -Continues to review testimony.

TAPE 159, SIDE A

002 HAAS: Continues testimony.

039 CHAIR COHEN: The escrow agent must properly account for what is needed?

043 HAAS: Yes. -Continues to review testimony.

092 SEN. SHOEMAKER: The definition of escrow, on page one, is conceived as a corporate setting. Is there anything that would prevent an individual from doing this? What are the implications of such an action?

100 HAAS: ORS 174.100 includes both individuals and corporations in the definition of "person". -We asked Legislative Counsel whether this is limited to corporate escrow agents; it is intended to cover only corporate licensees.

114 CHAIR COHEN: Could an employee of a corporation do this alone?

122 HAAS: An officer of a title company can act for that company. As an individual, theoretically that person could escrow personal property. The situation quickly gets very muddy.

133 SEN. SHOEMAKER: Should we specify that this is limited to an escrow company, rather than to a person within that company?

136 HAAS: We suggested that "escrow agent of licensee" be added, but LC said it was unnecessary.

143 SEN. SHOEMAKER: On page 8, the earnings of interest-bearing trust accounts may go to the benefit of the escrow agent. Why doesn't it go to the parties?

153 HAAS: This provision allows banks to negotiate account benefits with agents, as they currently do. It also allows the agent to take interest as part of a fee.

199 SEN. HILL: What other factors are in place to protect consumers?

207 HAAS: None. Title insurance companies have other requirements, but this is all that escrow companies must have.

224 SEN. HILL: What is the extent of the problem?

229 HAAS: We have had good relationships with agents who were both title companies and escrow agents; the big losses were from independent escrow agents.

252 SEN. HILL: Is there a reason to treat title escrow agents and independent agents differently?

255 HAAS: I don't think so.

257 SEN. HILL: Title companies must have reserves?

259 HAAS: Yes, but that has nothing to do with escrow.

263 JOHN STANLEY, OREGON LAND TITLE ASSOCIATION: Submits and summarizes written testimony (Exhibit E). -The Agents Section of OLTAA supports the bill.

TAPE 158, SIDE B

002 STANLEY: Continues testimony.

084 ALETA LAVANDIER, INTERSTATE TRUSTEE SERVICES CORPORATION: Submits and summarizes written testimony (Exhibit F).

116 SEN. SHOEMAKER: Your company works more as a foreclosing trustee than in handling the escrowing of transactions?

120 LAVANDIER: Yes. We do some escrow activity, but not a lot.

157 SEN. HILL: Who are your clients?

158 LAVANDIER: Banks, lending institutions, and mortgage companies.

181 ALFRED RASMUS, OREGON LAND TITLE ASSOCIATION: Testifies in support of bill.

244 PAT RITZ, OREGON LAND TITLE ASSOCIATION: Testifies in support of bill.

HB 2254, DELETES REQUIREMENT THAT CERTAIN ABANDONED PROPERTY ESCHEAT TO STATE IF NOT CLAIMED WITHIN 25 YEARS, PUBLIC HEARING & WORK SESSION

369 JANET NEWMAN, DIVISION OF STATE LANDS: Submits and summarizes written testimony (Exhibit G).

TAPE 159, SIDE B

002 NEWMAN: Continues testimony.

007 CHAIR COHEN: Is there back payment of interest?

008 NEWMAN: No. The interest always goes to the common school fund.
-Continues testimony.

040 SEN. SHOEMAKER: If we passed this bill, and then in the future wanted escheat back, could we re-impose it?

047 NEWMAN: I don't think so.

055 SEN. HILL: How many states have reciprocity with us?

056 MARCELLA EASLY, DIVISION OF STATE LANDS: We only have it with two others; other states are reluctant because of the liability.

066 SEN. HILL: Moves HB 2254 to the floor with a "do pass" recommendation.

071 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

HB 2079, RELATING TO PUBLIC HEALTH, PUBLIC HEARING & WORK SESSION

079 LAWRENCE FOSTER, ACTING STATE HEALTH OFFICER: Submits and summarizes written testimony (Exhibit H).

123 SEN. HILL: Isn't jail the wrong place?

130 FOSTER: We would never put someone in jail unless they were in quarantine; it would require an air isolation cell. Most jails are not equipped for this; Multnomah County is.

146 GARY OXMAN, MULTNOMAH COUNTY HEALTH OFFICER: Submits and summarizes written testimony (Exhibit I).

198 SEN. HILL: What do the rest of the counties, without these facilities, do?

201 FOSTER: They usually try to work out an inter-county arrangement. Most tuberculosis cases are found in Multnomah County.

210 SEN. HILL: The bill is not specifically about tuberculosis. I want to be sure that, if a situation occurs, everyone understands what should be done.

217 FOSTER: I agree. I assure you that public health authorities want to do the right thing.

222 SEN. HAMBY: Tuberculosis is found in migrant camps as well.

228 CHAIR COHEN: What diseases, other than tuberculosis, are airborne?

232 FOSTER: The disease must be airborne; it either cannot be noninfectious within 60 days, or will be infectious again. -I can't think of another disease that it applies to, which we might find. Perhaps diptheria.

259 SEN. HAMBY: Moves to pass HB 2079 to the floor with a "do pass" recommendation.

265 MOTION CARRIES, WITH SENATORS BROCKMAN, BUNN, AND SHOEMAKER EXCUSED.

HB 2250, ALLOWS USE OF CERTIFIED MAIL WITH RETURN RECEIPT WHEN STATUTES REQUIRE REGISTERED MAIL, PUBLIC HEARING & WORK SESSION

275 REPRESENTATIVE KEVIN MANNIX: Reviews intended purpose of bill.

HB 2662, RELATING TO RESTRAINING ORDERS, PUBLIC HEARING & WORK SESSION

316 REP. MANNIX: Reviews intended purpose of bill.

HB 2668, RELATING TO TORT ACTIONS FOR CHILD ABUSE, PUBLIC HEARING

336 REP. MANNIX: Reviews intended purpose of bill.

HB 2662, RELATING TO RESTRAINING ORDERS, PUBLIC HEARING & WORK SESSION

379 KATE BROWN, WOMEN'S RIGHTS COALITION: Submits and reviews written testimony (Exhibits J & K).

398 SEN. HILL: Moves HB 2662 to the floor with a "do pass" recommendation.

404 MOTION CARRIES, WITH SENATORS BROCKMAN, BUNN, AND SHOEMAKER EXCUSED.

HB 2250, RELATING TO CERTIFIED MAIL, PUBLIC HEARING & WORK SESSION

407 SEN. HILL: Moves HB 2250 to the floor with a "do pass" recommendation.

414 MOTION CARRIES, WITH SENATORS BROCKMAN, BUNN, AND SHOEMAKER EXCUSED.

HB 2377, ALLOWS LIEN ON REAL PROPERTY TO INCLUDE RENTS AND PROFITS OF REAL PROPERTY, PUBLIC HEARING

425 MAURICE RUSSELL, DEBTOR-CREDITOR SECTION, OREGON STATE BAR: Testifies in favor of bill.

TAPE 160, SIDE A

002 RUSSELL: Continues testimony.

SB 775, RELATING TO INSPECTION OF MOTOR VEHICLE FUELS, PUBLIC HEARING

031 SWENSON: Reviews intended purpose of bill.

044 CHAIR COHEN: Adjourns hearing at 3:19 p.m.

Reviewed by: Reviewed by:

Ingrid Swenson Bill Taylor Counsel Counsel Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A - Amendments to SB 510 - Staff - 1 page B - Amendments to
SB 510 - Staff - 2 pages C - Hand-engrossed version of SB 510 -
Staff - 7 pages D - Testimony on HB 2125 - Steve Haas - 6 pages
E - Testimony on HB 2125 - John Stanley - 3 pages
F - Testimony on HB 2125 - Aleta Lavandier - 1 page
G - Testimony on HB 2254 - Janet Neuman - 5 pages
H - Testimony on HB 2079 - Laurence Foster - 2 pages
I - Testimony on HB 2079 - Gary Oxman - 4 pages
J - Testimony on HB 2662 - Kate Brown - 1 page K - Testimony
on HB 2662 - Kate Brown - 1 page

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Measures Heard SB 566, WS SB 1054, WS SB 1037, WS HB 3112, PH SB 957, WS SB 945, WS SB 637, WS SB 389, WS

SENATE COMMITTEE ON JUDICIARY

May 13, 1991Hearing Room C 5:00 p.m.Tapes 161 - 163

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

MEMBER EXCUSED: Sen. Peter Brockman

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

WITNESSES: David Fidanque, American Civil Liberties
Union Sen. Bob Kintigh Sen. Grattan Kerans Rep. Kevin Mannix Jeff
Kushner, Office of Alcohol & Drug Abuse Programs Janice Yaden,
Department of Human Resources Jerry Weigler, Oregon Lawyers for Children
William Linden, State Court Administrator Kathleen Bogan, Oregon
Criminal Justice Council David Factor, Oregon Criminal Justice Council
Ralph Vaughan, Recording Industry Association of America Debbie Lee,
Intern for Sen. Springer Carol Bonnono, Multnomah County DUII Board

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TAPE 161, SIDE A

002 CHAIR COHEN: Calls hearing to order at 5:07 p.m.

SB 566, ESTABLISHES PROGRAM FOR ALTERNATIVE SENTENCING PROCEDURE IN
CRIMINAL CONVICTIONS, WORK SESSION

012 SWENSON: Submits and reviews -6 and -7 amendments (Exhibits A & B).

054 CHAIR COHEN: Moves to adopt lines 1-6, page 3, of the -6 amendments
to SB 566.

061 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND
HILL WERE EXCUSED.

065 SWENSON: Continues to review amendments.

122 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION: Submits and reviews

proposed amendments (Exhibit C).

173 SEN. BOB KINTIGH: We support these amendments.

SB 1054, PROVIDES THAT, FOR PURPOSES OF IMPLIED CONSENT, ANY AMOUNT OF ALCOHOL IN BLOOD CONSTITUTES BEING UNDER INFLUENCE OF ALCOHOL FOR PERSONS UNDER 21, WORK SESSION

196 SWENSON: Submits and reviews -3 amendments (Exhibit D).

200 SEN. HILL: Moves to reconsider committee vote on SB 1054.

202 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN WAS EXCUSED.

206 SWENSON: Continues to review amendments. -The -1 amendments are incorporated into the -3 amendments.

256 SEN. HAMBY: Moves to adopt the -3 amendments to SB 1054.

261 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN WAS EXCUSED.

262 SEN. SHOEMAKER: Moves SB 1054, as amended, to the floor with a "do pass" recommendation.

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

271 SEN. BUNN: [QUOTE] "I give notice of my intent to submit a minority report."

272 SEN. SPRINGER: Will join Sen. Bunn in a minority report.

SB 566, ESTABLISHES PROGRAM THAT ALLOWS ALTERNATIVE SENTENCING PROCEDURE IN CRIMINAL CONVICTIONS, WORK SESSION

279 SWENSON: Reviews -7 amendments.

305 SEN. HILL: Moves to amend the -7 amendments as requested by the ACLU, pending review by Legislative Counsel.

341 FIDANQUE: Reviews intended amendments to -7 amendments.

351 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN AND BUNN WERE EXCUSED.

352 SEN. HILL: Moves to adopt the -7 amendments to SB 566.

359 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN AND BUNN WERE EXCUSED.

362 SEN. HILL: Moves to adopt the -6 amendments to SB 566.

366 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN AND BUNN WERE EXCUSED.

367 SEN. HILL: Moves SB 566, as amended, to the Committee on Ways & Means with a "do pass" recommendation.

378 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

SB 1037, RELATING TO DEATH OR SERIOUS INJURY IN WORKPLACE, WORK SESSION

404 SWENSON: Submits and reviews hand-engrossed version of bill (Exhibit E).

TAPE 162, SIDE A

001 SEN. GRATTAN KERANS: Reviews intended purpose of bill.

049 SEN. SPRINGER: Moves to amend SB 1037 as shown in the hand-engrossed bill presented by Sen. Kerans.

053 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND BUNN WERE EXCUSED.

054 SEN. SPRINGER: Moves SB 1037, as amended, to the floor with a "do pass" recommendation.

064 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

HB 3112, RELATING TO ASSESSMENT AND TREATMENT OF PERSONS CONVICTED OF DUII OR PERSONS SUBJECT TO COURT APPROVED DIVERSION, PUBLIC HEARING

081 REPRESENTATIVE KEVIN MANNIX: Reviews intended purpose of bill.

106 CHAIR COHEN: Does this apply to all alcohol and drug programs that you deal with?

108 JEFF KUSHNER, OFFICE OF ALCOHOL & DRUG ABUSE PROGRAMS: It would only apply to DUII programs which are for conviction and diversion.

113 SEN. SPRINGER: How would you address the suspicion that people who do assessment tend to order the maximum treatment, when treatment is offered by the same program?

120 KUSHNER: In this bill, we are trying to avoid that situation.

SB 957, RELATING TO COURT APPOINTED SPECIAL ADVOCATE VOLUNTEER PROGRAM, WORK SESSION

149 JANICE YADEN, DEPARTMENT OF HUMAN RESOURCES: Reviews intended purpose of bill. Submits and summarizes written testimony (Exhibit F).

303 SEN. HILL: Arizona has combined citizen review boards and CASAs? What was the cost?

307 YADEN: \$935,000 for CRBs, and another \$500,000 for CASAs.

362 JERRY WEIGLER, OREGON LAWYERS FOR CHILDREN: Testifies in favor of bill.

TAPE 161, SIDE B

001 WEIGLER: Continues testimony.

011 WILLIAM LINDEN, STATE COURT ADMINISTRATOR: Supports bill as written, but not -1 amendments.

045 CHAIR COHEN: Why can't CRB volunteers serve as CASA volunteers?

046 LINDEN: I think there is potential conflict. -Continues testimony.

SB 945, APPROVES MISDEMEANOR SENTENCING GUIDELINES DEVELOPED BY STATE SENTENCING GUIDELINES BOARD, WORK SESSION

134 KATHLEEN BOGAN, OREGON CRIMINAL JUSTICE COUNCIL: Submits and reviews -3 amendments, and hand-engrossed version of bill (Exhibits G & H).

221 DAVID FACTOR, OREGON CRIMINAL JUSTICE COUNCIL: Reviews intended purpose

of amendments.

230 BOGAN: Continues review.

332 LINDEN: The bill provides for adoption of uniform citations by the Supreme Court. We will accelerate our usual process, since we usually have a February 1 deadline for new citations.

415 SEN. SPRINGER: Moves to delete subsection (3a) from the hand-engrossed version of the bill.

422 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SEN. BROCKMAN WAS EXCUSED.

TAPE 162, SIDE B

002 SEN. HILL: What is the Judicial Department's position on the bill?

003 LINDEN: We don't have one.

014 BOGAN: Continues to review amendments.

036 SWENSON: Legislative Counsel asked me to raise one grammatical issue; throughout the draft, where the word "prosecution" is being replaced by "sentenced," they have recommended changing "sentenced" to "for which criminal penalties were imposed."

045 BOGAN: We agree.

047 CHAIR COHEN: Moves to replace "sentenced" with "for which criminal penalties were imposed," as requested by Legislative Counsel.

054 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BROCKMAN WAS EXCUSED.

056 SEN. HAMBY: I am troubled by section 7. Was there a general consensus to limit the maximum amount of time in a local jail to six months?

067 BOGAN: The overall intent was to operate within the cap put into effect in 1989. -Sex offenses and DUII cases are the only things not bound by the six month cap.

122 FACTOR: It is a major policy change to include all sanctions in the "half the maximum" language.

130 SEN. SPRINGER: Moves to adopt the -3 amendments, as amended, to SB 945.

134 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND BUNN WERE EXCUSED.

135 SEN. SPRINGER: Moves SB 945, as amended, to the floor with a "do

pass" recommendation.

144 SEN. HILL: I will support the bill, but I am still unsure why these guidelines should become statutory. Judges can be given these guidelines without our making them law.

153 SEN. HAMBY: I will support the bill to get it out of committee, but I am not sure how I will vote on the floor.

159 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

SB 637, CREATES CRIME OF UNLAWFUL SOUND RECORDING, WORK SESSION

175 SWENSON: Submits amendments and other written testimony (Exhibits I, J, K, & L).

207 RALPH VAUGHAN, RECORDING INDUSTRY ASSOCIATION OF AMERICA: Reviews history and intended purpose of proposed amendments.

308 SEN. SHOEMAKER: I am of counsel to the firm of which Mr. Kamenish is a partner. It may not be a conflict of interest, but I'd like to make that statement for the record.

312 SEN. HILL: How many illegal recordings must a person have in possession?

315 VAUGHAN: Five of the same title, or 20 total, in a marketplace scenario.

SB 389, PROCEDURE FOR HEALTH CARE PROVIDER TO REPORT BLOOD ALCOHOL CONTENT OF CERTAIN MOTOR VEHICLE ACCIDENT VICTIMS, WORK SESSION

351 SEN. SPRINGER: Submits hand-engrossed version and -4 amendments (Exhibits M & N).

396 DEBBIE LEE, INTERN FOR SEN. SPRINGER: Reviews intended purpose of amendments.

TAPE 163, SIDE A

003 CAROL BONNONO, MULTNOMAH COUNTY DUII ADVISORY BOARD: Reviews intended purpose of amendments.

031 LEE: Continues to review proposed amendments.

060 SEN. SPRINGER: Moves to adopt the -A4 amendments to SB 389.

069 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND BUNN WERE EXCUSED.

081 CHAIR COHEN: Adjourns hearing at 7:08 p.m.

Submitted by: Reviewed by:

Kate Wrightson Ingrid Swenson Assistant Counsel

EXHIBIT LOG:

A - Amendments to SB 566 - Staff - 7 pages B- Amendments to
SB 566 - Staff - 2 pages C - Amendments to SB 566 - Dave Fidanque

- 1 page D - Amendments to SB 1054 - Staff - 8 pages
E - Hand-engrossed version of SB 1037 - Staff - 3 pages
F - Testimony on SB 957 - Janice Yaden - 3 pages
G - Amendments to SB 945 - Kathleen Bogan - 6 pages
H - Hand-engrossed version of SB 945 - Kathleen Bogan - 16 pages
I - Amendments to SB 637 - Staff - 5 pages J- Testimony on
SB 637 - Staff - 3 pages K - Testimony on SB 637 - Staff - 3 pages
L - Testimony on SB 637 - Staff - 1 page M - Hand-engrossed
version of SB 389 - Sen. Dick Springer - 9 pages N - Amendments to
SB 389 - Sen. Dick Springer - 2 pages