

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 HB 2258 (WRK) SB 389 (WRK) HB 2127 (WRK) HB 2019 (PAW) HB 3165 (PAW) HB 2708 (PUB) HB 2996 (PUB) HB 2381 (PUB) HB 2166 (PAW) HB 3493 (PAW)

SENATE COMMITTEE ON THE JUDICIARY

May 27, 1991Hearing Room C 1:20 p.m.Tapes 189 - 190

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: BILL TAYLOR, COMMITTEE COUNSEL INGRID SWENSON,
COMMITTEE COUNSEL MARK THORBURN, COMMITTEE ASSISTANT

WITNESSES: THE HONORABLE GAIL SHIBLEY, STATE
REPRESENTATIVE THE HONORABLE LEE JOHNSON, CIRCUIT COURT JUDGE THE
HONORABLE RALPH WICKOFF, PRO TEMP CIRCUIT COURT JUDGE DAVID NEBEL,
OREGON LEGAL SERVICES, OREGON ADVOCACY CENTER, AND UNITED SENIORS BOB
JOONDEPH, OREGON ADVOCACY CENTER SCOTT MCGRAW, ATTORNEY AT LAW TONI
PETERSON, CHILDREN SERVICES DIVISION JEROME BARTON, OREGON STATE BAR
INTERNATIONAL LAW SECTION ROSS LAYBOURN, DEPARTMENT OF JUSTICE JIM
MARKEE, OREGON COLLECTORS ASSOCIATION

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 189, SIDE A

003 CHAIR COHEN: Calls the meeting to order at 1:20 p.m.

HB 2258

005 CHAIR COHEN: The bill is back before us; we need to add an emergency clause.

008 MOTION: The Chair moves reconsideration of the bill.

009 SEN. BROCKMAN: It doesn't delete page one.

010 MOTION: The Chair moves the dash three amendments (Exhibit A).

013 CHAIR COHEN: Calls for objections; hearing none, so ordered; Sen.s Hamby and Hill excused.

014 MOTION: The Chair moves HB 2258 back to the floor with a "do pass" recommendation.

016 SEN. BROCKMAN: Doesn't it go to Ways and Means?

017 CHAIR COHEN: No. Explains why.

022 VOTE: Motion passes unanimously; Sen.s Hamby and Hill excused.

SB 389

025 CHAIR COHEN: Asks Sen. Springer if he wants to do 389.

026 SEN. BROCKMAN: No, we don't.

026 CHAIR COHEN: You need Sen. Hamby here.

027 SEN. SPRINGER: Or Sen. Hill.

HB 2127

027 CHAIR COHEN: HB 2127.

029 BILL TAYLOR, COMMITTEE COUNSEL: There are dash four and dash five amendments. Explains the bill and the amendments. The dash five affects the B- engrossed version of the bill.

066 CHAIR COHEN: We need to look at the B-engrossed bill to make sure it's narrowed only to membership lists; please guide us to that place.

069 TAYLOR: Discusses page 7, line 16, of the B-engrossed bill.

074 CHAIR COHEN: But you still have "any such contracts."

075 TAYLOR: "Any such records;" I guess it refers back to the membership camping contracts.

078 CHAIR COHEN: What's the pleasure of the committee?

- Not sure that it really does talk about everything there.

- Do you want to redo this again?

087 TAYLOR: Maybe "any such records of membership lists."

088 CHAIR COHEN: I'd like you to take that down to Legislative Counsel to work on it some more and set this aside for now.

- Asks committee if it wants to qualify the membership lists at all. Mentions witnesses' positions on whether the lists should remain confidential.

093 SEN. BROCKMAN: I think they should.

096 CHAIR COHEN: Let's get Bill to make it explicitly membership lists rather than trademark secrets or whatever.

HB 3165

109 CHAIR COHEN: We can take up 3165. Summarizes the bill. Where's Mr. Markee; he was here. Let's move on.

HB 2019

119 CHAIR COHEN: 2019. Invites Ross Laybourn to testify.

125 ROSS LAYBOURN, DEPARTMENT OF JUSTICE: The Department supports the bill. Submits Exhibit B. Explains historical background of charitable solicitations in Oregon. Explains purpose of HB 2019. The A-engrossed version includes amendments offered by the Department of Justice in the House. Discusses effect of bill on political committees.

203 CHAIR COHEN: You're finished amending this bill?

206 LAYBOURN: That's correct.

207 CHAIR COHEN: We'll hold this and wait a few days; explains why.

211 TAYLOR: So in the situation where a campaign sells tickets to a fundraiser, and the person who buys them were to pay for the tickets and tell the campaign that they weren't going, the committee could give the tickets to campaign workers without falling within the definition of this act?

218 LAYBOURN: That's correct.

221 CHAIR COHEN: How does the committee feel?

224 SEN. BROCKMAN: Nothing more is going to be done to it, is there?

225 CHAIR COHEN: Not as far as I know.

226 SEN. BROCKMAN: I'd move it if I understood it better.

227 CHAIR COHEN: If you think waiting will help.

229 MOTION: Sen. Brockman moves SB 2019 to the floor with a "do pass" recommendation.

234 VOTE: Motion passes unanimously; Sen.s Hamby and Hill excused.

SB 389

237 CHAIR COHEN: Sen. Springer?

238 SEN. SPRINGER: We're ready on 389.

- You should have a re-engrossed version of the bill (Exhibit C) that incorporates amendments that were adopted earlier and include some technical amendments.

- As to fiscal impact, I've talked with Bill Linden and he says that he'll reevaluate the fiscal impact. If we could allow this to go to the

President's desk, maybe we can ask him to let this go over to the House side before it goes to Ways and Means.

261 CHAIR COHEN: Fine with me. We'll make it "do pass" and refer it off the floor to Ways and Means or whatever is useful.

265 SEN. BROCKMAN: When did "may" get in there instead of "shall?"

269 INGRID SWENSON, COMMITTEE COUNSEL: That was added in the dash four amendments that was submitted the last time the bill was up. The medical association does not like the wording.

274 SEN. BROCKMAN: They don't like the bill.

275 SWENSON: Each created problems which they described.

276 SEN. SPRINGER: Explains use of "may."

285 CHAIR COHEN: We adopted all of those amendments, didn't we?

287 SEN. SPRINGER: That's correct.

287 CHAIR COHEN: So the bill is before us intact.

289 MOTION: Sen. Springer moves SB 389 as amended to the floor with a "do pass" recommendation.

291 VOTE: Motion passes 4 to 1; Chair Cohen voting no and Sen.s Hamby and Shoemaker excused.

HB 3165

297 CHAIR COHEN: Back to 3165.

SB 389

301 Conversation between Chair Cohen and Sen.s Brockman and Springer about news coverage on the bill.

HB 3165

314 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Explains the bill. Submits (Exhibit D). Have proposed dash one amendments (Exhibit E); explains the amendments.

430 SEN. HILL: Did the House side say that they would concur with the amendments?

433 MARKEE: I don't think there's any problem with concurring.

435 CHAIR COHEN: We'll publish the amendments.

440 MOTION: The Chair moves the amendments to HB 3165.

442 CHAIR COHEN: Calls for objections; hearing none, so ordered; Sen.s Bunn and Springer excused.

- Sets the bill aside so if anyone who has an interest to bring it back can flag it down if there's a problem with it.

447 MARKEE: Legal Aid and the Oregon Bankers Association have no problems with the amendments.

451 CHAIR COHEN: They have an opportunity to let's us know if they're objecting to the bill or to the amendments.

HB 2708

455 CHAIR COHEN: Introduces Rep. Shibley.

462 REPRESENTATIVE GAIL SHIBLEY: Supports the bill. Mentions other groups who support the bill and the history of the bill. It passed the House 57 to 1.

TAPE 190, SIDE A

041 CHAIR COHEN: That doesn't make much difference here.

044 REP. SHIBLEY: I appreciate that.

- Discusses the bipartisan support in the House Judiciary Committee.

048 CHAIR COHEN: We care even less than that.

- Why do we need the bill?

049 REP. SHIBLEY: The U.S. District Court decision has made the granting of temporary guardianships unconstitutional. Discusses goals and provisions of the bill. There are dash four amendments (Exhibit F); supports the amendments.

067 CHAIR COHEN: So you do support the dash four amendments?

068 REP. SHIBLEY: Yes.

069 CHAIR COHEN: What about requiring the petitioner to pay for the attorney? What if that's another spouse or someone else than an agency or

073 REP. SHIBLEY: If someone is trying to gain that kind of responsibility, it behooves them to insure that things are done by the book and that all parties are protected; that protection has some financial costs.

084 CHAIR COHEN: The petitioner may not be the same person as the temporary guardian.

086 REP. SHIBLEY: I see what you're saying; the dash four has the petitioner pays, right?

088 CHAIR COHEN: The bill as it comes to us.

- We'll be thrashing out on this.

093 REP. SHIBLEY: My presence is to avoid impression that the chief sponsors don't think that this is an important bill.

096 CHAIR COHEN: Invites Dave Nebel and Bob Joondeph to testify.

- We have written testimony submitted from Jane Baumgarten of the Governor's Commission on Senior Services (Exhibit G) in support of the bill.

106 DAVID NEBEL, OREGON LEGAL SERVICES, THE OREGON ADVOCACY CENTER, AND UNTIED SENIORS: Supports the bill. Paraphrases (Exhibit H).

166 CHAIR COHEN: The appointment of an attorney doesn't have to be in all cases then. How do you ferret this out?

169 NEBEL: One of our amendments speaks to

170 CHAIR COHEN: Ferreting that

171 NEBEL: Ferreting that out. That's one of the most significant problems of the A4 amendments. Would delete and insert certain language.

180 TAYLOR: If you're seeking to have someone put into restrictive custody, then wouldn't their ability to request a hearing be in question? How could they knowingly waive it?

185 NEBEL: The way we proposed the bill originally would have required a hearing in all cases. The House Committee decided that wasn't appropriate. Explains why.

Practically, not very many proposed wards request the hearings. Our position and the courts' practice is that any expression of intent by the proposed ward is treated as a hearing request.

218 SEN. SHOEMAKER: Were you going to add "when the award requests and when the interests of justice require" or where you going to substitute?

220 NEBEL: We were going to substitute.

221 SEN. SHOEMAKER: Why not just add it and give the judge complete discretion?

223 NEBEL: We're concerned by giving the judge complete discretion that appointments would not happen for all the cases which we think would be appropriate; the opponents think that counsel would be appointed in more cases than appropriate. The language "when justice so requires" begs the question.

233 SEN. SHOEMAKER: It gives the court discretion.

234 CHAIR COHEN: The problem has been that the court has had discretion.

244 BOB JOONDEPH, OREGON ADVOCACY CENTER: The counsel appointment provisions is a result of a compromise that was sanctioned by the House Committee. Originally advocated appointment of state paid counsel when ward was being proposed for psychiatric placement. Describes present law. Mr. Taylor has indicated the weaknesses of the compromise.

266 CHAIR COHEN: How many of these temporary guardianships are there? How many cases come before the courts?

273 NEBEL: There were fifty filings in Multnomah County in 1990; estimate 150 statewide.

285 CHAIR COHEN: Do you know if they ask any further questions, like who filed for the temporary guardianship?

290 JOONDEPH: There are two graphs in Exhibit I indicating the breakdown.

297 CHAIR COHEN: So in 80% of them, there was no evidence of an emergency?

298 JOONDEPH: That's correct.

301 CHAIR COHEN: Would you just as soon not have temporary guardianships?

306 JOONDEPH: No. It's important to have the ability to get a temporary guardianship. Explains why. It's possible to have more artfully drafted legislation, but this is the model that we've gone with. Mentions difficulties behind temporary guardianships; cites examples.

328 CHAIR COHEN: How much is it going to cost to get a lawyer every time you go to the dentist?

331 JOONDEPH: Under the original proposal, that situation wouldn't require an attorney.

333 CHAIR COHEN: Talk about what do you need to have done here, not the original proposal.

335 JOONDEPH: I am; the original proposal is what we think needs to be done. Explains goals of original proposal.

343 CHAIR COHEN: Couldn't the visitor provide some function in this circumstance; i.e., getting teeth fixed as opposed to temporary guardianship that's aimed at restrictions and commitments?

351 JOONDEPH: I agree; for that group of people, the visitors are fine.

354 CHAIR COHEN: Can you help us define that group of people?

355 JOONDEPH: Maybe.

356 CHAIR COHEN: Either way we go, it would be useful to try to sort them out a little better to give some direction to the court whether there needs to be a lawyer.

368 NEBEL: The lawyer provision arises only where a restrictive placement is sought. Getting teeth fixed is not one of those restrictive placements.

385 CHAIR COHEN: So the issue in the court case was notice?

387 JOONDEPH: That's correct; the present law doesn't provide notice to the proposed ward.

394 CHAIR COHEN: And request for hearing was another issue.

396 JOONDEPH: There were other aspects included. Meaningful notice and

the opportunity to contest were the real issues. In this context, dealing with people who are borderline competent.

408 SEN. SHOEMAKER: The amendments add an emergency clause; why?

414 NEBEL: The present law is unconstitutional; important to have substitute as soon as possible.

424 TAYLOR: In a civil commitment proceeding, the person to be committed must be appointed a counsel, correct?

427 JOONDEPH: That's correct; at state expense.

428 TAYLOR: And in a civil commitment proceeding, it's the state bringing the action, correct?

432 JOONDEPH: In most cases, there is a provision to private individuals to petition, but the decision whether to proceed is made by a state official.

437 TAYLOR: And in a guardianship, there is no provision for the appointment of counsel, correct?

442 JOONDEPH: Correct.

443 TAYLOR: And the bill you're proposing?

444 JOONDEPH: As proposed, there is a provision; whether it's mandatory is a question because it's subject to the discretion of the court.

450 TAYLOR: So in a situation where there is a guardianship and someone is going to be put into restrictive custody, it's discretionary with the court, but where it's someone to be committed civilly, there's no discretion with the court, correct?

456 JOONDEPH: That's correct.

457 TAYLOR: And in both cases, the person's liberty is being hemmed in?

458 JOONDEPH: Yes.

465 CHAIR COHEN: Invites Judge Lee Johnson to testify.

467 THE HONORABLE LEE JOHNSON, CIRCUIT COURT JUDGE: I'll speak after Mr. McGraw.

TAPE 189, SIDE B

018 SCOTT MCGRAW, ATTORNEY AT LAW: In most civil commitment proceedings, there is no one else to seek a commitment of an individual; because of the state action involved, there must be appointment of counsel.

- Where there are interested persons, a civil guardianship proceeding is the method used. We have an inherently flexible guardianship and conservatorship system; inherent in that is the possibility of abuse.

- The portions of the bill that deal with the appointment of counsel and payment of fees have not received appropriate discussion.

- Discusses the requirements from the court case that found temporary guardianships unconstitutional; the bill addresses them.

- Less than one percent of temporary guardianship cases are contested.

- The issues of notice and opportunity to be heard should be statutorily addressed; they're not. That part of the bill should pass. Explains why the bill should not deal with appointment and payment of counsel.

085 CHAIR COHEN: You're testifying in opposition to parts of the bill and suggesting that we leave the counsel issue on the table; what happens then?

090 MCGRAW: In our experience, no individual opposing a guardianship or conservatorship has ever been required to proceed without counsel. ORS Chapter 126 already sufficient to meet the needs of anyone under such a proceeding.

- Concerned that, as bill currently written, the court is going to have to appoint counsel in every single case. Discusses disadvantages of such a system; cites examples.

145 CHAIR COHEN: You're saying that even if you're dealing with less than one percent of the cases being contested, the phrase "interest of justice" is going to require more.

148 MCGRAW: There will be more contested cases; explains why.

- Extremely rare for the court to deny the appointment of a guardian or a conservator.

166 JOHNSON: After the court decision in Grant v. Johnson, we've adopted rules regarding notice and the insurance of a hearing.

- Have never heard of guardianship being granted to obtain dental care. Statements that we granted guardianships without evidence are not true.

- Have appointed counsel when desirable; we look to assets of protected persons themselves. It's expensive to get a guardianship.

- Likes the bill, but wants the attorney provision removed. Believes Oregon State Bar Committee on Probate takes the same position. Doubts the smaller counties has the resources to implement the attorney provision.

- This bill talks about restrictive placement. That's naive; don't always know when a restriction on placement is going to be made; explains why.

- In Multnomah County, whenever a petition for temporary guardianship is filed, a visitor is appointed to interview the proposed ward. Extremely high standards must be met before a temporary guardianship is approved.

306 SEN. SHOEMAKER: How would the visitor system work under the time constraints of this bill? Can the visitors act quickly enough?

312 JUDGE JOHNSON: Have three visitors in Multnomah County and have recently revised the program

317 CHAIR COHEN: And you also had a judge who never wanted to appoint a

visitor.

319 JUDGE JOHNSON: The visitor is the advocate to make sure that someone isn't overreaching.

322 SEN. SHOEMAKER: And you're required to appoint a visitor?

323 JUDGE JOHNSON: Yes.

- This bill says within 48 hours the visitor gets out and interviews the

327 SEN. SHOEMAKER: Is that in here?

328 JUDGE JOHNSON: Yes.

- With our visitors, that will be no problem. It will be a problem downstate because, while we charge the parties \$300 for the visitor, some counties use volunteers.

338 CHAIR COHEN: Thanks the witness; calls for further witnesses.

341 THE HONORABLE RALPH WICKOFF, PRO TEMP CIRCUIT COURT JUDGE: Doesn't support the attorney fee provisions of the bill; explains why. Agrees that everyone should have a lawyer when the situation is challenged.

420 CHAIR COHEN: Thanks the witness; anyone else?

HB 2996

426 CHAIR COHEN: House Bill 2996.

432 TONI PETERSON, CHILDREN' SERVICES DIVISION: Supports the bill. Paraphrases Exhibit J.

473 CHAIR COHEN: Thanks the witness; anyone else?

- We'll hold this over to make sure other interested parties can come forward.

HB 2381

483 CHAIR COHEN: House Bill 2381.

TAPE 190, SIDE B

034 JEROME BARTON, OREGON STATE BAR INTERNATIONAL LAW SECTION: Submits Exhibit K. Explains the bill and its advantages. Lists other adopting jurisdictions.

069 CHAIR COHEN: Any questions for Mr. Barton?

071 BARTON: We have one amendment (Exhibits L and M); explains the amendment.

083 CHAIR COHEN: So you do have an A2 amendment?

084 BARTON: Yes.

085 CHAIR COHEN: Thanks the witness.

HB 2166

087 CHAIR COHEN: HB 2166.

- Anyone like to speak to 2166?

- Summarizes the bill; its on its way to the Revenue Committee.

113 MOTION: Sen. Hill moves HB 2166 to the Revenue Committee with a "do pass" recommendation.

116 CHAIR COHEN: Calls for discussion; there are no amendments.

- Asks Bill Taylor if he saw anything undue in the bill.

122 TAYLOR: No.

123 VOTE: Motion unanimously passes; Sen. Bunn excused.

HB 3493

128 CHAIR COHEN: We have 3493.

- Anyone like to speak on the bill?

- Summarizes the bill. Am I wrong? What else does it do?

136 TAYLOR: Summary is correct. Discusses current law.

140 CHAIR COHEN: Is that the same definition we used in the other bill?

142 TAYLOR: I don't know. This is a statutory definition.

143 CHAIR COHEN: O.K.

144 SEN. SHOEMAKER: Trying to recall the bill that just passed this committee.

145 CHAIR COHEN: 707; the death penalty bill.

146 SEN. SHOEMAKER: Right.

- The determination of mental retardation is made at what point?

149 CHAIR COHEN: It doesn't have to be made if it's a death penalty case; if its a murder case, they could elect to allege the mental retardation early on. This bill allows a mentally retarded person to have someone with them at a grand jury proceeding.

154 SEN. SHOEMAKER: Who determines whether a person is mentally retarded?

158 CHAIR COHEN: I suppose, if they go there, somebody would have to . . .

159 SEN. SHOEMAKER: Can we depend on that?

160 CHAIR COHEN: Don't know.

- Its the District Attorney who would ask that someone be present.

166 SEN. SHOEMAKER: What would happen if the District Attorney did not make that request?

168 CHAIR COHEN: Now, there's not even

169 SEN. SHOEMAKER: Subsequently, there might be a conviction and then there would be a motion that the person should have had representation before the grand jury. Then you'd have to start over.

172 CHAIR COHEN: The District Attorneys know that the bill is here. We'll set it over to find out. Bill?

175 TAYLOR: Right now, the mentally retarded person has no one with him. If the witness were indicted by the grand jury, that would be an appealable issue.

182 SEN. SHOEMAKER: I'm just anticipating that someone will be creating a problem. Cites example.

188 CHAIR COHEN: I guess the District Attorneys

189 SEN. HILL: It seems that its all discretionary anyway; no one says the District Attorney must file.

198 CHAIR COHEN: Everybody O.K. on this?

- I'd like to pass this out today and, if we have a problem, we'll get it back.

- Asks Bill Taylor to call the DA's association.

205 MOTION: Sen. Hill moves HB 3493 to the floor with a "do pass" recommendation.

209 VOTE: Motion unanimously passes; Sen. Bunn excused.

213 CHAIR COHEN: We'll ask Bill to shuffle this around a little bit.

HB 2127

215 CHAIR COHEN: I think we've taken care of our agenda for today.

216 TAYLOR: On 2127, I have language back from Legislative Counsel's office on the dash five amendments (Exhibit N).

218 CHAIR COHEN: You're already there?

219 TAYLOR: It was done by Legislative Counsel; they've redrafted it to make it more specific.

223 CHAIR COHEN: Committee want to hear Bill out? O.K.

224 TAYLOR: Explains the dash four amendments.

238 CHAIR COHEN: That's the dash four amendments?

239 TAYLOR: Yes.

240 MOTION: The Chair calls for objections to adopting the dash four amendments; hearing none, so ordered; Sen. Bunn excused.

241 CHAIR COHEN: Before us now is a redrafted

242 TAYLOR: I'll pass it out.

243 CHAIR COHEN: per Sen. Brockman's request keeping the membership lists confidential.

- Reads the amendment. Keep secret under ORS Chapter 501?

254 TAYLOR: 501.

255 CHAIR COHEN: What about 192?

256 TAYLOR: I think its 192.501.

- Asks for permission to clarify that if the Committee adopts the amendment.

259 CHAIR COHEN: That O.K. with you, Sen. Brockman?

260 SEN. BROCKMAN: Sure.

260 MOTION: Sen. Brockman moves the dash five amendments.

261 CHAIR COHEN: Calls for objections; hearing none, so ordered. Sen.s Bunn and Hill excused.

263 MOTION: Sen. Brockman moves HB 2127 as amended to the floor with a "do pass" recommendation.

266 CHAIR COHEN: Sen. Brockman moves the bill with the dash four and the hand-engrossed amendments that Bill Taylor has just passed out as opposed to the straight dash five.

273 VOTE: Motion passes unanimously; Sen.s Bunn and Hill excused.

276 CHAIR COHEN: Recesses the meeting, at 3:00 p.m., until 7:00 p.m.

Submitted by:

Reviewed by:

Mark Thorburn
Committee Counsel

Bill Taylor Committee Assistant

EXHIBIT LOG:

A - Amendments to HB 2258 - Committee Staff - 1 page
B - Testimony on HB 2019 - Ross Laybourn - 6 pages C- Hand
Engrossed Version of SB 389 - Senator Springer - 6 pages
D - Materials on Acquisition of Local Information re: HB 3165 -
Jim Markee - 2 pages E - Amendments to HB 3165 - Jim Markee - 1
page F - Amendments to HB 2708 - Committee Staff - 1 page

G - Testimony on HB 2708 - Jane Baumgarten - 1 page
H - Testimony on HB 2708 - David Nebel - 4 pages
I - Testimony on HB 2708 - Bob Joondeph - 8 pages
J - Testimony on HB 2996 - Toni Peterson - 1 page
K - Testimony on HB 2381 - Jerome Barton - 10 pages
L - Amendments to HB 2381 - Jerome Barton - 2 pages
M - Amendments to HB 2381 - Jerome Barton - 1 page
N - Amendments to HB 2127 - Committee Staff - 1 page

EXHIBITS DISTRIBUTED TO COMMITTEE BUT NOT REFERRED TO IN HEARING

O - Letter re: HB 2381 - James Dole - 1 page P - Letter re:
HB 2381 - Ross Runkel - 1 page

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Measures Heard HB 3299, PH HB 2660, PH HB 3448, PH HB 2586, PH HB 2018, PH HB 3112, WS HB 2311, WS HB 3521, WS HB 2993, WS HB 2198, WS

SENATE COMMITTEE ON JUDICIARY

May 27, 1991Hearing Room C 7 p.m.Tapes 191 - 192

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

MEMBER EXCUSED: Sen. Jim Bunn

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

WITNESSES: Jackie Bloom, City of Portland Lieutenant
Patrick Nelson, Portland Police Bureau Rep. Kevin Mannix Julie Grizzel,
Citizen Peggy Lay, Citizen Rebecca Miller, Citizen Sandra Banks, Citizen
Yvonne Simmons, Citizen Renee Delapp, Citizen Rebecca Anderson, Human
Society of the Willamette Valley Jonni Hudgens, Citizen Fred Avera, Polk
County District Attorney Rosanna Creighton, Citizens for a Drug-Free
Oregon Frank Brawner, Oregon Bankers Association Marla Rae, Department
of Justice

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TAPE 191, SIDE A

002 CHAIR COHEN: Calls hearing to order at 7:16 p.m.

HB 3299, RELATING TO MOBILE TRACKING UNITS, PUBLIC HEARING

017 JACKIE BLOOM, CITY OF PORTLAND: Submits and reviews written testimony (Exhibit A).

055 LIEUTENANT PATRICK NELSON, PORTLAND POLICE BUREAU: Submits and reviews written testimony (Exhibit B).

110 CHAIR COHEN: How do you handle a search warrant for this?

111 NELSON: The same as any other.

118 CHAIR COHEN: How long is the warrant effective?

119 NELSON: Ten days.

123 SEN. HAMBY: How do you do the tracking?

128 NELSON: Explains method of tracking.

HB 2660, CREATES CRIME OF UNLAWFUL OBTAINING DOG OR CAT, PUBLIC HEARING

155 REP. KEVIN MANNIX: Reviews history and intended purpose of bill.

244 CHAIR COHEN: The dealer must keep records?

246 REP. MANNIX: Yes.

247 CHAIR COHEN: Who does inspection?

249 REP. MANNIX: Animal control officers and police, but they are under no obligation other than keeping reports for public inspection.

273 JULIE GRIZZEL, CITIZEN: Submits and reviews written testimony in support of HB 2660 (Exhibit C).

303 PEGGY LAY, CITIZEN: Testifies in support of HB 2660.

330 REBECCA MILLER, CITIZEN: Submits and reviews written testimony in support of bill (Exhibit D).

382 SANDRA BANKS, CITIZEN: Submits and reviews written testimony in support of HB 2660 (Exhibit E).

TAPE 192, SIDE A

016 YVONNE SIMMONS, CITIZEN: Submits and reviews written testimony in support of bill (Exhibit F).

048 RENEE DELAPP, CITIZEN: Testifies in support of HB 2660.

073 REBECCA ANDERSON, HUMANE SOCIETY OF THE WILLAMETTE VALLEY: Submits and reviews written testimony in support of HB 2660 (Exhibit G).

086 JONNI HUDGENS, CITIZEN: Submits and reviews written testimony in support of HB 2660 (Exhibit H).

HB 3448, AUTHORIZES PEACE OFFICER TO ENGAGE IN COMUNITY CARETAKING FUNCTIONS, PUBLIC HEARING & WORK SESSION

113 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY: Submits and summarizes written testimony (Exhibit I).

157 CHAIR COHEN: Subsection 4, which concerns the right to enter, is very broad.

168 AVERA: That was added by the House Committee on Judiciary, as their response to an overly broad bill.

196 SEN. SPRINGER: Bad facts make bad law. This is not a good bill.

210 AVERA: Prior to 1988, this is what we assumed the law to be.

HB 2586, AUTHORIZES COURT TO CAUSE EVALUATION OF EACH PERSON CONVICTED

OF CRIME TO DETERMINE ALCOHOL OR DRUG DEPENDENCY, PUBLIC HEARING

254 ROSANNA CREIGHTON, CITIZENS FOR A DRUG-FREE OREGON: Testifies in support of bill.

HB 2018, MODIFIES ASSAULT IN THIRD DEGREE TO INCLUDE ASSAULT BY MORE THAN ONE PERSON WHO IS ACTUALLY PRESENT, PUBLIC HEARING

318 CHAIR COHEN: Reviews intended purpose of bill.

342 SEN. SPRINGER: How does the statute define physical injury?

345 SWENSON: Reviews ORS definition of "physical injury".

HB 3112, RELATING TO ASSESSMENT, WORK SESSION

424 SWENSON: Reviews history and intended purpose of bill.

TAPE 191, SIDE B

009 SEN. HILL: Moves HB 3112 to the floor with a "do pass" recommendation.

015 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

HB 2311, RELATING TO PROPERTY SEIZURE, WORK SESSION

023 SWENSON: Reviews history and intended purpose of bill.

033 SEN. BROCKMAN: Moves HB 2311 to the floor with a "do pass" recommendation.

036 SEN. SPRINGER: How was subsection 2 added?

041 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: That was requested by the Department of Justice.

060 SEN. SHOEMAKER: What if an agency doesn't do this? The next section says "not liable for reasonable actions." What is the penalty?

072 SEN. BROCKMAN: Is the agency liable for the property's value?

079 BRAUNER: Explains case behind bill. -This is not a forfeiture bill; it relates to evidence seized in an investigation.

118 SEN. SHOEMAKER: Did you intend agencies to be responsible for damages?

121 BRAUNER: We wanted agencies to feel protected.

136 SEN. SPRINGER: Calls the previous question.

143 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

HB 3521, RELATING TO COMPENSATION, WORK SESSION

149 SWENSON: Reviews intended purpose of bill and -A4 amendments (Exhibit J). -The -A4 amendments should refer to "line 6" instead of "line 2" of the A-engrossed bill.

176 SEN. HAMBY: Moves to adopt the -A4 amendments to HB 3521, with amendments suggested by counsel.

179 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BUNN WAS

EXCUSED.

181 SEN. HILL: Moves HB 3521, as amended, to the floor with a "do pass" recommendation.

186 SEN. BROCKMAN: Why would you want to delay payment?

194 MARLA RAE, DEPARTMENT OF JUSTICE: Reviews intended purpose of bill.

208 SEN. SPRINGER: Aren't there people better suited to adopt rules for medical fee schedules than the Department of Justice?

211 RAE: Yes.

212 CHAIR COHEN: That is why the bill is here. We are trying to make the schedules uniform.

252 CHAIR COHEN: Calls the previous question.

258 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

HB 2993, RELATING TO DOMESTIC DISTURBANCE, WORK SESSION

278 SWENSON: Reviews history and intended purpose of bill.

294 SEN. HAMBY: Moves HB 2993 to the floor with a "do pass" recommendation.

296 SEN. BROCKMAN: Does this bill increase police paperwork too much?

306 SEN. HILL: Previous testimony was that some individual law enforcement officers did not think it was too much of an increase.

319 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

HB 2198, RELATING TO CORRECTIONS, WORK SESSION

345 SWENSON: Reviews intended purpose of bill and -1 amendments (Exhibit K). -The persons listed in subsection (b) should be included in subsection (a), and subsection (b) then deleted.

416 CHAIR COHEN: Moves to amend the -1 amendments as suggested by counsel.

417 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BUNN WAS EXCUSED.

TAPE 192, SIDE B

011 SEN. HAMBY: Moves to adopt the -1 amendments, as amended, to replace the content of HB 219 8, pending review by Legislative Counsel.

040 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATOR BUNN WAS EXCUSED.

041 SEN. HAMBY: Moves HB 2198, as amended, to the floor with a "do pass" recommendation.

045 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

052 CHAIR COHEN: Adjourns hearing at 8:45 p.m.

Reviewed by: Reviewed by:

Bill Taylor Ingrid Swenson Counsel Counsel

Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A	-	Testimony on HB 2020 - name - # pages	B	-	Testimony on		
HB 2020 - name - # pages	C	-	Amendments to HB 2021 - name - #				
pages D - E	- F	- G	- H	- I	- J	- K	-