

OREGON LAW COMMISSION

Date Decemeber 12, 2012
9:30am

Oregon Civic Justice Center
Melvin Henderson-Rubio Hearing Room
Salem, OR

MEMBERS PRESENT: Lane Shetterly, Prof. Bernie Vail, Mark Comstock, Judge Stephen Bushong, Hardy Myers, Chief Judge Rick Haselton, Rep. Chris Garrett, John DiLorenzo, Jr., Justice Martha Walters (for Chief Justice Thomas Balmer), Mary Williams (for Attorney General Ellen Rosenblum) and Susan Gary

MEMBERS EXCUSED: Julie McFarlane, Sen. Floyd Prozanski, Scott Shorr, and Prof. Symeon Symeonides

STAFF PRESENT: Prof. Jeff Dobbins, Wendy Johnson, Lisa Ehlers

GUESTS: BeaLisa Sydlik and Matt Shields

MEASURE/ISSUES HEARD:

UTC
Probate Modernization
LC 681

Speaker	Comments
Shetterly	Called the meeting to order
Dobbins	Executive Report. Update on the OLC budget. The budget is included in the judicial fees account as a pass through. SB 5016, sect. 5 - gives the amount as close to \$224,300. This makes up a substantial portion of the OLC budget.
Johnson	The pass through also includes county libraries and Council on Court Procedures.
Dobbins	We need to address the Chair and Vice Chair reelections
Myers	I nominate the incumbent chair and vice chair for re-nomination.
Comstock	I second.

Shetterly	Objections? None. Motion carried.
Johnson	Let's start with the UTC proposal. Background information. It is pretty self explanatory. There have been some issues that have come up, mostly tension between beneficiaries and trustees. The estate planning members of the work group are really swamped, so we are not planning on meeting until January.
Vail	Is the redline draft from the Executive Commission?
Susan Gary	It is from a subcommittee and just a place to start.
Judge Bushong	Where are the disagreements?
Johnson	The notice required by trustees and beneficiaries. The lawyers who represent the trustees find it difficult and want to limit notice, but they also do not want to harm beneficiaries.
Shetterly	Was David English the reporter?
Johnson	Yes
Shetterly	We might want to include David on the phone for one of the meetings.
Vail	Did the committee try to poll the Bar members?
Gary	There was a notice in the estate planning newsletter saying there would be a project starting up and asking for and input or ideas.
Chief Judge Haselton	What is the significance of approving the formation of a work group?
Shetterly	We acknowledge a work group to approve staff and legislative counsel efforts toward a project. There is a work group process. In terms of criteria for forming a work group, we look at the subject matter and whether it is appropriate for the OLC or not. We tend to get involved when a project is seen as hard to deal with because of many differing views, etc.

Johnson	The criteria is outlined in our biennial report.
Comstock	Is there any movement afoot for Uniform Law Committee involvement?
Justice Walters	I think that would be a good idea to pass these ideas along to NCCUSL.
Gary	I don't think there is anything afoot at the national level to deal with UTC.
Shetterly	This would be another good reason to involve David English.
Myers	I move that the Oregon Law Commission accept the recommendation of the Program Committee to authorize the formation of an Oregon Uniform Trust Code Work Group, as outlined by the proposal prepared by the staff and the OSB Estate Planning and Administration Section's Executive Committee.
Shetterly	Objections? None. Motion carried.
Johnson?	Probate code proposal reviewed. This is a larger scope than the UTC. The chapters reviewed are the entire probate code minus the estate tax chapter. There is a desire to make the code simpler and more cost effective, especially for smaller estates.
Gary	I am really excited about this project. There hasn't been a full review of probate code since 1969. The time is right to do it and the OLC will be a great organizer for this, as it will be more than the estate planning section can handle. This will be a beneficial project, especially for the public. There is also a lot of interest from the probate bench.
Shetterly	The person coordinating the Oregon proposal is also attending the Uniform Commission meetings. They may want to take the foot off the gas and wait to see what happens at the national level.
Judge Bushong	What is the process of picking a work group?

- Johnson We ask around and take suggestions for members.
- Myers I move that the Oregon Law Commission accept the recommendation of the Program Committee to authorize the formation of a Probate Modernization Work Group, as outlined by the proposal prepared by the staff and the OSB Estate Planning and Administration Section's Executive Committee.
- Shetterly Objections? None. Motion carried.
- Johnson We also need to approve the Aid and Assist draft, LC 681. Background given. We tried to pass legislation last session and it got stuck in Ways and Means. There are less than ten states that do not have this in statute. We are ripe for a problem.
- Myers What is the fiscal impact? Was it done by the Legislative Fiscal Office? Has this remained steady?
- Johnson The number has gone down a little bit. The Legislative Fiscal Office came up with their fiscal, but other agencies have said there may be no fiscal.
- Justice Walters I am abstaining because I think there is a case before us. Perhaps the judges can put together a case that it will cost fiscally by not passing this.
- Shetterly We can certainly bring these arguments up as the bill is heard.
- Judge Bushong I agree, there has to be a savings.
- CJ Haselton Recusal question?
- Shetterly It is been narrowly drawn, but judges should look at their immediate docket.
- Myers I move that LC 681 be presented to the 2013 Legislative Assembly, with the recommendation of the Oregon Law Commission [and as conceptually amended...]. I also move that the Oregon Law Commission adopt the Aid and Assist Report

Shetterly

prepared by Wendy Johnson and staff to accompany LC 681.

Objections? None. Justice Walters and CJ Haselton recuse themselves. Motion carried.

Work Group Updates?

Prof. Dobbins

Reviews current work groups.

Collateral Consequences will begin after session. Julie McFarlane is interested in chairing.

Shetterly

Motion made to adjourn. Motion carried. Meeting adjourned.

Submitted By,

Reviewed By,

Lisa Ehlers
Legal Assistant

Wendy Johnson
Deputy Director and General Counsel

EXHIBIT SUMMARY

UTC Project Proposal
Probate Modernization Project Proposal
LC 681
Juvenile Aid and Assist Report