

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

February 23, 2005 Hearing Room B

8:30 A.M. Tapes 36 - 38

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Sal Esquivel, Vice-Chair

Rep. Mike Schaufler, Vice-Chair

Rep. George Gilman

Rep. Paul Holvey

Rep. Derrick Kitts

Rep. Chip Shields

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

Introduction of Committee Measures – Work Session

HB 2445 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
---------------	----------------	-----------------

TAPE 36, A

003 Chair Brown Calls the meeting to order at 8:39 a.m. Opens the work session for the introduction of committee bills.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

005 Chair Brown Submits LC 2011, LC 2013, and 3107 **(EXHIBITS N, O, and P)**.

011 Rep. Schaufler **MOTION: Moves LC's: 2011, 2013, 3107 BE INTRODUCED as committee bills.**

VOTE: 6-0-1

EXCUSED: 1 - Kitts

Chair Brown Hearing no objection, declares the motion CARRIED.

016 Chair Brown Closes the work session for the introduction of committee bills and opens the public hearing on HB 2445.

HB 2445 – PUBLIC HEARING

Jason Heuser Submits written testimony in opposition to HB 2445 without public testimony **(EXHIBIT B)**.

Marge Kafoury Submits written testimony in opposition to HB 2445 without public testimony **(EXHIBIT C)**.

018 Janet Adkins Committee Administrator. Explains HB 2445.

034 Brandt Wolf Oregon Telecommunications Association (OTA). Submits written testimony in support of HB 2445 **(EXHIBIT D)**. Explains OTA and that OTA was the requestor for HB 2445. States the exemptions of HB 2445. Asserts that the bill creates transparency and does not preempt local governments. Emphasizes that the bill is not being introduced to stop local governments from creating telecommunication networks. Proclaims that the bill is not anti-rural.

085 David Paulson Oregon Government Affairs Manager, Sprint. Submits written testimony in support of HB 2445 **(EXHIBIT E)**. Reiterates that it

does not put any prohibitions on cities entering into telecommunication business. Wants citizens to have a voice in the process. Says that it will help taxpayers know where their money is going. Says that the US Supreme Court has ruled that the law allows municipalities to vote on whether their governments can enter into the telecommunication business (**EXHIBIT F, Page 1**). States that it is difficult for private companies to compete with government subsidized businesses.

130	Paulson	Talks about depreciation cost. Details the costs of building a telecommunication network that may not be apparent and how the three year projection would help local governments. Wants citizens to know when they are providing subsidies to a telecommunication business.
165	Doug Cooley	Century Tel. Speaks in support of HB 2445. Says that Century Tel provides telecommunication services to 56 exchanges or service areas primarily in rural areas in Oregon. Notes that a need for ongoing investment does occur in the telecommunication business. Says that it is an investment scenario that private businesses need to know about. Mentions the four technicians they employee in the Silver Lake area.
210	Rep. Schaufler	Asks if there is anything in HB 2445 that would impact any utilities that are operating today.
219	Wolf	Says that there is nothing in the bill that would affect current telecommunication ventures put into place by local and county governments.
222	Rep. Esquivel	Asks what the cost is to vote on the issues and asks where the \$85,000 that it costs Medford to vote is going to come from.
231	Wolf	Says that it would come from the general fund. States that the cost of an election is minuscule in comparison to the cost of a telecommunications network.
236	Rep. Esquivel	Asks if it is an unfunded mandate.
238	Wolf	Says that he had not thought about that, but that he does not think it would be. States that it would still be the decision of the city council whether to go forward or not.

249	Rep. Esquivel	Says that he does believe that there is a trigger in HB 2445 that requires a local government to have an election and that HB 2445 is an unfunded mandate.
262	Paulson	Explains that the cost of doing business in the telecommunication industry is going to be much greater than the cost of an election. Says that the county or city could lose a lot more money if this bill does not go through.
270	Wolf	Mentions the situation in Ashland and their telecommunication structure. Believes that the system has never earned any positive revenue. Notes that it has cost quite a bit of money from the general fund to keep up. Reiterates that the cost of the election is much smaller than the cost of the telecommunication system.
286	Chair Brown	Asks if a private company pays property tax assessed on their property.
289	Paulson	Says that Sprint does pay property taxes in the state of Oregon.
291	Chair Brown	Asks if Sprint pays franchise fees.
292	Paulson	Affirms that they do pay franchise fees in many cities.
294	Chair Brown	Asks if those funds flow into the general funds.
295	Paulson	Answers that he does not know.
297	Wolf	Says that revenue flows from the companies to the cities.
315	Rob Vancleave	Mayor, Dalles. Speaks in opposition to HB 2445. Talks about a fiber optic system that was installed in the Dalles that cost \$2 million. States that it is called Quality of Life or Q Life. Details who is connected to the system. Says that the system was built during a period of high unemployment. States that HB 2445 would interfere with his constituents' voices.
358	Vancleave	Says that there are already processes in place to make sure that citizen's voices are heard. Asks what the motivation and need is for HB 2445.

370 Susan Huntington Executive Director, Dalles Area Chamber of Commerce. Speaks in opposition to HB 2445. Says that the interest of her community trumps the interest of private business in the case of HB 2445. States that Sprint is their local area provider. Talks about the Dalles' relationship with Sprint and says that Sprint declined their request to install fiber optic systems or to join in a partnership with the city. Indicates that, after Sprint rejected offers to help with Q Life, the company began to actively oppose the project at the local, state and federal levels. Talks about Sprint's actions.

TAPE 37, A

006 Dan Ericksen Judge, Wasco County and President, Quality Life Intergovernmental Agency (Q Life). Submits and reads from written testimony in opposition to HB 2445 (**EXHIBIT F**). Says that the local provider would not build the fiber optic loop. Says that rural Oregon needs telecommunication networks. Believes that the situation in Ashland will not be repeated. Says that the county saves \$40,000 a year, because of Q Life. Discusses how the telecommunications network helps ensure proper care at the hospital. Believes that the way the bill is written would require a vote to expand their current telecommunication services. States that having Google in Wasco County is huge.

070 Chair Brown Asks if Q Life cost \$250,000 and where they got the money.

074 Ericksen Says that for the current extension they went to the Mount Hood Economic Alliance and details the monies that were received.

081 Chair Brown Asks if Q Life provides dial tone to private individuals.

082 Ericksen Acknowledges that the telecommunication system can provide dial tone but that someone else provides dial tone.

089 Chair Brown Asks if Q Life plans to provide dial tone in the future.

091 Ericksen Admits that providing dial tone is not in their business plan. Emphasizes that they will provide dial tone for Google, because Google could not get service from a local provider.

096 Rep Schaufler Does not believe that two people more supportive of rural Oregon do not exist than him and Rep. Butler. Asks if HB 2445 will have any

impact on their current system and if they are positive about their conclusion.

113	Ericksen	Admits that he is not positive, but he cannot read anywhere in HB 2445 where expending capital funds would not require approval by a public vote. Declares that he is testifying for parts of rural Oregon that are not yet connected to a telecommunications network. States that Google would not be coming to the Dalles if HB 2445 was in place, because he and the mayor are under a non-disclosure agreement with Google. Explains that when they built Q-Life they wanted a call center. Quotes a news article from Link News about the positive affects of Q Life on the Dalles.
152	Rep. Shields	Asks how the capital collected would stack up to the capital that phone companies can raise.
157	Vancleave	Indicates that telecommunication companies like Sprint have far more monetary resources than the Dalles. States that an election would cut into the amount that was set aside for a telecommunication network. Emphasizes that constituents already have a voice in the process.
182	Rep. Shields	Asks if government resources could be put into a campaign to advocate for a telecommunication network in an election.
186	Vancleave	Explains that the government could only take an informative position.
188	Chair Brown	Asks if the cost of building a system has a negative impact on other areas of their budget.
192	Vancleave	Denies that it has any negative impact on their budget. Explains that to get the telecommunication network going different people helped out and says that they are already profitable after nine months of operation.
197	Ericksen	Details that they are \$40,000 in the black in their contingency reserve. Says that there is a list of contingency items and this does include expanding the service out to more remote areas. Says that they were in the black from day one.
213	Rep. John Dallum	House District 59. Speaks in opposition to HB 2445. Says that they are trying to put together a telecommunication system in Wheeler County. Believes that the Wheeler county local government knows what will work best. Talks about how cell phones provide a safety

system on the highway and says that this bill would make it more difficult to put a telecommunication network in place.

- 250 Rep. Phil Barnhart House District 11. Speaks in opposition to HB 2445. Talks about the election issue raised by Rep. Shields. Mentions Eugene Water and Electric Board's (EWEB) proposal to do a study about whether it wanted to go into the telecommunications business. Explains that the proposal was put on the ballot. Says that ads came up in opposition to the study and that no one knew where the ads came from, because the source of the funds would not become available until after the election. Says that a city councilor asked the opposition to reveal where the ads came from and was able to obtain the information before the election. Stresses that the ads were sponsored by two telecom companies. Talks about how the measure was failing before the *Register Guard* revealed the financiers of the opposing ads and that the measure passed after the contributors were revealed.
- 297 Rep. Barnhart Believes that local governments need to be entrepreneurial. Expresses a need for infrastructure. Speaks about EWEB and the cost of power. Talks about how demand response programs in electrical utilities are done through clear and automatic communication systems.
- 350 Rep. Barnhart States that telecommunication systems make the demand response programs possible and these systems would save money for the public. Reiterates opposition to HB 2445.
- 375 Adkins Says that written testimony was left in opposition to the bill from Terry Edvaldson (**EXHIBIT A**).
- 400 John McArdle Mayor, Independence. Speaks in opposition to HB 2445. Explains how Monmouth and Independence came together to form a telecommunication network.

TAPE 36, B

- 001 McArdle Talks about the need for a telecommunication network in their community. Asserts that telecommunication companies did not want to provide service in Independence and Monmouth in the near future. Emphasizes that everything in the local government does occurs in public. Explains that the fiber optic program was created to provide a service to their community. Parallels situation with the advent of electricity in rural communities and mentions the Rural Electrification Act of 1938. Says that the monetary disparity between local

governments and telecommunication businesses will be apparent in elections.

- | | | |
|-----|--------------------|--|
| 046 | Elaine Stewart | President, Chamber of Monmouth and Independence. Speaks in opposition to HB 2445. Says that the people who know the needs of the community are those who live and work there. |
| 063 | Rob Myers | Oregon Rural Telecommunication Coordination Council (ORTCC). Submits written testimony and speaks in opposition to HB 2445 (EXHIBIT I) . Talks about how ORTCC was formed and that it is the only unfunded council in Oregon. Believes that the bill does not meet the needs of rural Oregon. Addresses the issue of the addition of jobs and that even small amounts make a big impact in rural communities. |
| 107 | Myers | States that five years ago they fought to use monies to build telecommunication systems in Sherman, Wheeler, and Gillman County and says that the telecommunication systems currently in place are serving the communities. Believes that this system would not be in place if HB 2445 had been in effect at the time they were trying to build the system. Wants government to have or not have the right to choose whether to build a telecommunication network. |
| 143 | Rob Bovett | Attorney, Lincoln County. Submits and summarizes written testimony in opposition to HB 2445 (EXHIBIT G) . Touches on three points: if Oregon Telecommunication Association wants notification, this can be done in another way, local governments need to be encouraged to develop their communities, and HB 2445 is an unfunded mandate in violation of the Oregon Constitution. |
| 195 | David Barenberg | Legislative Director, League of Oregon Cities (LOC). Speaks in opposition to HB 2445. Emphasizes how telecommunication networks help local governments provide economic development in their communities. Says that nationally telecommunication business is the biggest spender on lobbying and campaign activities and local government cannot spend any money supporting measures. Says that it will not be a clear decision for the public because one telecommunication network can reside in different jurisdictions (i.e. city and county). |
| 242 | Barenberg | Believes that the bill will affect current projects. States that HB 2445 could lead to years of expensive litigation. Says that there are many laws which already create government transparency. |
| 268 | Rep. Peter Buckley | House District 5. Speaks in opposition to HB 2445. Says that the fiber optic network in Ashland is not a failure. Talks about how the |

fiber optic system positively affected his business. States that other small businesses have benefited from the network as well. Asserts that businesses have come to Ashland because of the fiber optic network. States that the network would not be in place if HB 2445 had been in statute.

- | | | |
|-----|----------------|--|
| 315 | Ben Penhollow | Association of Oregon Counties (AOC). Submits and summarizes written testimony in opposition to HB 2445 (EXHIBIT H). Believes that HB 2445 hinders local governments. Emphasizes that the budget process at the local levels are already open to the public through various statutes. |
| 345 | Penhollow | Says that the deployment of telecommunication systems needs to come to all of Oregon and it is going to require a public/private partnership. |
| 381 | Ben Doty | NoaNet – Oregon. Speaks in opposition to HB 2445. Indicates that telecommunication businesses have access to state and federal universal funds. |
| 414 | Rep. Schaufler | Wants Mr. Doty to clarify that when he says incumbent he is not talking about incumbent elected officials. |
| 416 | Doty | Affirms that Rep. Schaufler is correct. |

TAPE 37, B

- | | | |
|-----|--------------|---|
| 001 | Tom O'Connor | Oregon Municipal Electric Utilities. Submits written testimony in opposition to HB 2445 (EXHIBIT J). Talks about how a number of laws create transparency when elected officials make policy decisions. States that the Public Utilities Commission (PUC) has an application process that cities must go through when building telecommunication systems. Believes that because of the way HB 2445 is drafted it would apply to future and current telecommunication systems. Says that municipal electric companies nationwide are providing telecommunication services. Explains that they are not in the business to make money but instead to serve the community. |
| 047 | O'Connor | Says that the governments run the telecommunication systems without monetary favoritism. Mentions Ashland and says that the city did not get into the service to make money. Admits that Ashland's telecommunication system did cost more than they thought it would. Emphasizes that all of the actions taken in relation to fiber optic |

networks are done in public. Talks about how Ashlanders saved 3.4 million dollars in cable cost due to the network.

086	Doty	Mentions another community that he represents.
094	Jeff Bessonette	Board Member, Citizens Utility Board. Speaks in opposition to HB 2445. Says that communities have been turned down when they have asked telecommunication providers to come into their communities. Emphasizes the uncertainty about whether HB 2445 would affect current telecommunication systems and shares concern about this portion of the law.
145	Bessonette	Explains that city council provides adequate transparency and that HB 2445 adds unneeded oversight. Says that HB 2445 is an anti-consumer bill.
164	Andi Miller	Executive Director, Common Cause Oregon. Submits and summarizes written testimony in opposition to HB 2445 (EXHIBIT K). States that http://freepress.net/communityinternet/ has a good article about telecommunication network legislation in other states. Says that eight states have similar legislation before them and that HB 2445 is part of an industry wide effort to preempt local governments from developing telecommunication systems.
180	Rep. Schaufler	States that if it is not correct for us to preempt telecommunication services, why it is correct to preempt the local governments in terms of land use.
193	Rep. Esquivel	Agrees with Rep. Schaufler.
198	Mike McArthur	Executive Director, Association of Oregon Counties. Testifies in opposition to HB 2445. States that telecommunication systems exist in Sherman County due to a federal grant given to a private company. Says that no franchise fee is collected for fiber optic wire that is being laid next to Sherman County roads.
214	Sam Churchill	Dailywireless.org, Portland. Submits written testimony in opposition to HB 2445 (EXHIBIT L). Wants inexpensive, reliable broadband access. Talks about the Umatilla telecommunication network. Emphasizes that telecommunication systems can save counties money.
270	Churchill	

Says that the current telecommunication plans of local governments let private industries compete in the marketplace.

- 290 Mike Dewey Submits testimony in support of HB 2445 on behalf of Virginia W. Lang **(EXHIBIT M)**.
- 302 Schelley Jensen Verizon. Speaks in support of HB 2445. Notes that the definition of a telecommunication service is providing the service to the public for a fee and the EWEB example would not be covered under HB 2445. Talks about McMinnville's desire to provide telecommunication services to the community at a cheaper price than private companies in the area. Says that McMinnville decided not to go forward because of the study that they did.
- 365 Mike Dewey Oregon Cable Telecommunications Association. Speaks in support of HB 2445. Wants to form a workgroup to look at the issues further. Talks about telecommunication monopolies and says that monopolies will go away. Mentions how AT&T mismanaged their monopoly and believes that current competition will cause the company to collapse.

TAPE 38, A

- 001 Dewey States that Monmouth has DSL service from Qwest. Talks about Ashland and how competition is good. References an article in the *Mail Tribune* that talks about how the city was dismayed that Charter lowered its prices. Says that Ashland is a mistake in terms of their financial performance. References a report about the projects in counties and their finances. Talks about how Bandon has applied for a public works loan and the inherent advantages that cities have.
- 050 Dewey Mentions Q Life. Talks about the city of Tacoma. Says that a vote creates transparency. Understands need to develop rural economies and that the county has to subsidize telecommunication networks if no one else will build them. Wants transparency surrounding the issue of where the money will come from and says that a vote is needed to do this.
- 072 Terry Edvalson Rural Oregon Telecommunication Consortium (ROTC). Submits written testimony in opposition to HB 2445 **(EXHIBIT A)**. Says that telecommunication companies would not invest in many areas of Oregon. Says that Google would not be in the Dalles had Q Life not made the investment. Says that Oregon Dental Service would not exist in La Grande if the public sector had not made the investment in telecommunications. Says that this is the eighth session that he has testified against this type of bill.

116	Rep. Schaufler	Asks about the preemption of local government in terms of land use.
118	Edvalson	States that he was on the Union County Planning Commission for eight years and on the Oregon Energy Facility Citing Council (OEFCC) for eleven years. Says that he had super citing authority on the OEFCC and that they only used it once. Explains that he has not seen in the land use planning process a parallel to HB 2445. Asserts that land use laws protect him from his neighbors and visa versa. Believes that there are some unreasonable local considerations and that it will play out with Measure 37.
131	Rep. Schaufler	Says that if local governments are qualified to make decisions about telecommunication networks than local government are qualified to make good, reasonable decisions about land use laws.
135	Edvalson	Agrees that local government can handle land use laws and believes that local government is handling it within the framework of the courts.
138	Rep. Holvey	Asks about long range financial projections in terms of maintaining the assets and infrastructure of a telecommunication network.
148	Edvalson	Says that the public sector has provided the infrastructure for private services. States that it depends on the price model. Explains that an elected official will not go ahead without sound financial planning in place.
166	Chair Brown	Closes the public hearing on HB 2445. Adjourns the meeting at 10:45 a.m.

EXHIBIT SUMMARY

- A. HB 2445, written testimony, Terry Edvalson, 3 pp
- B. HB 2445, written testimony, Jason Heuser, 1 p
- C. HB 2445, written testimony, Marge Kafoury, 4 pp
- D. HB 2445, written testimony, Brant Wolf, 2 pp
- E. HB 2445, written testimony, David Paulson, 1 p
- F. HB 2445, written testimony, Dan Ericksen, 1 p
- G. HB 2445, written testimony, Rob Bovett, 2 pp

- H. **HB 2445, written testimony, Ben Penholley, 1 p**
- I. **HB 2445, written testimony, Rob Myers, 1 p**
- J. **HB 2445, written testimony, Tom O'Connor, 2 pp**
- K. **HB 2445, written testimony, Andi Miller, 1 p**
- L. **HB 2445, written testimony, Sam Churchill, 11 pp**
- M. **HB 2445, written testimony, Virginia W. Lang, 1 p**
- N. **Introductions, LC 2013, staff, 2 pp**
- O. **Introductions, LC 3107, staff, 2 pp**
- P. **Introductions, LC 2011, staff, 5 pp**