

HOUSE COMMITTEE ON LAND USE

May 18, 2005 Hearing Room 50

1:30 P.M. Tapes 99 - 100

Corrected 10/14/05

MEMBERS PRESENT: Rep. Bill Garrard, Chair

Rep. Gordon Anderson, Vice-Chair

Rep. Mitch Greenlick, Vice-Chair

Rep. Robert Ackerman

Rep. Mary Nolan

Rep. Patti Smith

Rep. Mac Sumner

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD:

SB 413A - Public Hearing

SB 887A - Work Session

SB 688A – Public Hearing and Work Session

SB 1044 - Public Hearing and Work Session

HB 3285 - Reconsideration and Work Session

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 99, A

002 Chair Garrard Calls the meeting to order at 1:38 p.m. and opens a public hearing on SB 413A.

SB 413A – PUBLIC HEARING

010 Rep. Gene Whisnant HD 53. Submits and reads a prepared statement about his experience with SB 413 and encourages the committee to seek a solution that is fair to both private land owners and electric companies (**EXHIBIT A**). Also submits a copy of SB 413 A-engrossed (**EXHIBIT B**).

067 Rep. Ackerman Asks about the length of the transmission line through the private property.

Rep. Whisnant Responds that the property owner will testify later and estimates 10 or 20 lines.

Rep. Ackerman Asks for an estimate in miles.

Rep. Whisnant Responds about a mile.

100 Roger Martin Lobbyist, Central Electric Co-op. Discusses the conflict between the territorial allocation bill, which requires that co-ops provide power for all the residents of their area, and the transmission line in question which crosses private property and whose owners appealed their case to LUBA. Submits a fact sheet on SB 413 (**EXHIBIT C**) and packet of information including pictures of transmission lines (**EXHIBIT D**).

175 Al Gonzalez President and CEO, Central Electric Co-op. Describes the importance of transmission lines and outlines problems faced when they cannot be rebuilt. Encourages support for SB 413.

225	Dave D. Markham	Chief Operating Officer, Central Electric Co-op. Explains that there are no other options and reiterates the need for the line. Reviews information in packet (EXHIBIT D) .
316	Rep. Greenlick	Asks if they negotiated the siting of lines owner by owner during the original negotiation.
	Markham	Responds that each was negotiated individually.
	Rep. Greenlick	Asks if in those negotiations they negotiated for rights to upgrade at a later date.
	Gonzalez	Responds that those agreements allow them to maintain, operate, change out and replace the lines.
339	Rep. Ackerman	Asks for a summary of why they lost the appeal if they have an easement to cover their increased activities.
	Gonzalez	Responds that they lost the appeal due to the land use laws enacted after the construction of the line.
	Markham	Continues, explaining that there was a question if it was a lawful requirement of the use.
	Gonzalez	Adds details of the appeal.
380	Rep. Ackerman	Verifies that they have applied for a Measure 37 (2004) claim.
	Gonzalez	Responds that they have and are seeking all possible options.
	Rep. Ackerman	Asks what the status of the claim is.
	Gonzalez	Responds it is with Deschutes County.
391	Markham	Reports opposition to potential amendments on behalf of Rep. Whisnant and explains reasoning.

005	Markham	Points out that the packet lists pole heights of existing poles and shows new heights.
025	Don Schellenberg	Oregon Farm Bureau. Submits and reads written testimony suggesting a rejection of SB 413 (EXHIBIT E).
034	Matt Cyrus	Owner of property in question, Deschutes County. Explains the background of the transmission line siting and the incompatibility of the current easement and the proposed upgrade. Speaks in opposition to SB 413A. Clarifies his objection and outlines alternative options.
0126	Rep. Ackerman	Verifies the length of the line on his property.
	Cyrus	Responds one mile.
	Rep. Ackerman	Asks about the topography of the property.
	Cyrus	Describes property and mentions offers from a cell company.
135	Rep. P. Smith	Asks Schellenberg if there is a height limit on exclusive farm use (EFU) land.
	Schellenberg	Responds that they are only height limits near airports.
	Rep. P. Smith	Reports a height restriction of 35 feet for buildings within EFU zones in a specific county.
147	Rep. Greenlick	Asks if this is a commercial battle.
	Cyrus	Discusses failed negotiations with the power company.
	Chair Garrard	Asks about the period of time they have been involved in this conflict.
	Cyrus	Answers 4 years.
175	Connie Cyrus	Deschutes County. Discusses the property and describes the impact of the transmission line.
215	Boyd Keeton	

Board member, Central Electric Board of Directors. Speaks in support of SB 413A and discusses the transmission line.

- 250 David Clemens Member, Central Electric Board of Directors. Speaks in support of SB 413A.
- 309 Loy Peterson Chairman, Central Electric Board of Directors. Describes the coop as not-for-profit and stresses importance of the transmission line. Urges support of SB 413A.
- 368 Rep. Ackerman Notes the length of the dispute and its consideration at all levels of government. Asks if at any time during the process they have authorized negotiations with the property owner.
- Peterson Responds negatively. Verifies he means the easement.
- Rep. Ackerman Clarifies he means to reach any form of agreement.
- Peterson Responds they have tried to negotiate.
- 400 Rep. Anderson Notes previous testimony stating that the cost of “undergrounding” the line would be no more than building a higher line and asks if that is accurate.
- Peterson Responds negatively.
- Rep. Anderson Asks for a comparison of how much the two would cost.
- Peterson Responds it would be four to five times more expensive.
- 406 Rep. Sumner Asks if there were provisions in the original easement that prohibited higher towers or different shapes.
- Peterson Responds he is not aware of any.

TAPE 99, B

- 004 Rep. P. Smith Asks why it would cost more to maintain an underground line than one above ground.

	Peterson	Explains why the underground is more expensive.
	Keeton	Adds that other problems.
022	Peterson	Adds another problem with underground lines.
028	Chair Garrard	Reviews Rep. Whisnant's first statement and asks if Rep. Whisnant will chair a work group with Matt Cyrus, Linda Swearingen, Roger Martin, Dave Markham and Dave Hunnicutt.
	Rep. Whisnant	Suggests Rep. Ackerman co-chair the committee.
	Rep. Ackerman	Agrees.
	Rep. Whisnant	Reports his intention to form consensus.
	Chair Garrard	Closes the public hearing on SB 413A and opens a work session SB 887 A

SB 887A – WORK SESSION

066	Sam Litke	Committee Administrator. Reviews the provisions of SB 887.
	Chair Garrard	Reference two new amendments to SB 887, -A14 amendments (EXHIBIT F) and the -A17 amendments (EXHIBIT G) .
	Jack Isselman	Columbia Sportswear Company and Electro Scientific Industries. Submits and reads a prepared statement in support of the -A14 amendments to SB 887 (EXHIBIT H) .
	Rep. Greenlick	Comments on testimony.
154	Peter Bragdon	Vice President and General Counsel, Columbia Sportswear Company. Submits and summarizes written testimony in support of the -A14 amendments to SB 887 and (EXHIBIT I) .
	Rep. Greenlick	Reports that Rep. Ackerman has sponsored the -A15 amendments which prohibit cities from using ORS 222.750 until January 1, 2008. Explains that the -A12 amendment delete ORS 222.750 and the -A17

amendments repeal ORS 222.750 effective January 2, 2008. Outlines his preferences as the -A12 amendments, -A15 and then -A17.

Rep. Ackerman Elaborates on the -A12 amendments. Announces there are -A18 amendments and explains their absence.

Rep. Greenlick Notes there are problems with the -A17 amendments and recommends adopting an omnibus set of amendments.

245 Doug Riggs Central Oregon Cities Organization. Reports he has submitted concepts to Legislative Counsel and discusses provisions for proposed further amendments.

Chair Garrard Reviews amendments. Closes the work session on SB 887A and opens a public hearing on SB 688A.

SB 688A – PUBLIC HEARING

300 Sam Litke Committee Administrator. Reviews the legislative history of SB 688 and explains its provisions. Describes the –A2 amendments from Art Schlack (**EXHIBIT K**).

340 Art Schlack Association of Oregon Counties. Speaks in support of SB 688 and the –A2 amendments. Reviews the actions in the Senate and explains the effect of the –A2 amendments.

393 Linda Ludwig League of Oregon Cities. Describes her participation in the crafting of the amendments and outlines her concern with the period of time allowed.

TAPE 100, B

015 Ludwig Describes her acceptance of the -A1 and -A2 amendments if there were added provisions and makes a suggestion for another amendment.

Chair Garrard Asks if Schlack agrees with the suggestions of Ludwig.

Schlack Responds negatively and elaborates on his concern.

Chair Garrard Verifies Schlack's position.

Schlack Confirms his position.

050 Tom Gallagher Urban Developer's Coalition. Addresses the proposed changes.

Chair Garrard Verifies Schlack's position is to support SB 688A.

Schlack Clarifies that his recommendation is to adopt the –A2 amendments.

Chair Garrard Closes the public hearing on SB 688 and opens a work session on SB 688A.

SB 688 A – WORK SESSION

075 Chair Garrard MOTION: Moves to ADOPT SB 688A-A2 amendments dated 5/9/05.

VOTE: 7-0-0

AYE: In a roll call vote, all members present vote Aye.

Chair Garrard The motion CARRIES.

080 Rep. Anderson MOTION: Moves SB 688A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 7-0-0

AYE: In a roll call vote, all members present vote Aye.

Chair Garrard The motion CARRIES.

CHAIR GARRARD will lead discussion on the floor.

Chair Garrard Closes the work session on SB 688A and opens a public hearing on SB 1044.

SB 1044 – PUBLIC HEARING

- Sam Litke Committee Administrator. Introduces SB 1044.
- 137 Linda Swearingen Deschutes County. Submits an informational handout on SB 1044 (**EXHIBIT L**) and speaks in support of SB 1044.
- Bob Rindy Department of Land Conservation and Development. Submits written testimony of Lane Shetterly in support of SB 1044 and discusses necessity of SB 1044.
- Chair Garrard Closes the public hearing on SB 1044 and opens a work session on SB 1044.

SB 1044 – WORK SESSION

- 150 Rep. Anderson **MOTION: Moves SB 1044 to the floor with a DO PASS recommendation.**
- VOTE: 7-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- Chair Garrard **The motion CARRIES.**
- Rep. P. Smith **MOTION: Moves SB 1044 be placed on the CONSENT CALENDAR.**
- VOTE: 7-0-0**
- Chair Garrard **Hearing no objection, declares the motion CARRIED.**
- Chair Garrard Closes the work session on SB 1044 and opens a work session for the purpose of reconsidering SB 3285.

HB 3285- RECONSIDERATION AND WORK SESSION

- Chair Garrard Explains the reasoning for reconsidering HB 3285.
- 165 Rep. Anderson **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 3285.**

- Chair Garrard Notes the technical objections to the bill by the Department of Agriculture and the authors of the bill.
- 185 Rep. Ackerman Asks for clarification about the official status of HB 3285.
- Chair Garrard Reports that HB 3285 was voted out of committee.
- Sam Litke Committee Administrator. Adds it was not delivered to the Chief Clerk's desk.
- 194 Rep. Anderson **MOTION: Moves to RECONSIDER the vote by which HB 3285 was passed.**
- VOTE: 7-0-0**
- Chair Garrard **Hearing no objection, declares the motion CARRIED.**
- Chair Garrard Closes the work session on HB 3285 and adjourns the meeting at 3:15 p.m.

EXHIBIT SUMMARY

- A. SB 413, prepared statement, Rep. Whisnant, 4 pp
- B. SB 413, copy of bill, Rep. Whisnant, 4 pp
- C. SB 413, informational handout, Roger Martin, 3 pp
- D. SB 413, informational pamphlet, Roger Martin, 15 pp
- E. SB 413, written testimony, Don Schellenberg, 1 p
- F. SB 887, -14 amendments, Jack Isselmann, 1 p
- G. SB 887, -17 amendments, Rep. Greenlick, 10 pp
- H. SB 887, written testimony, Jack Isselmann, 2 pp
 - I. SB 887, written testimony, Peter Bragdon, 2 pp
- J. (NO EXHIBIT J)
- K. SB 688A, -A2 amendments, Art Schlack, 1 p
- L. SB 1044, informational handout, Linda Swearingen, 1 p
- M. SB 1044, written testimony of Lane Shetterly, Bob Rindy, 1 p