

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

June 30, 2005 Hearing Room 357

3:45 P.M. Tapes 14 - 16

CORRECTED 09/14/05

MEMBERS PRESENT: Rep. Rep. Wayne Krieger, Chair

Rep. Rep. Jeff Barker, Vice-Chair

Rep. Rep. Brian Boquist, Vice-Chair

Rep. Rep. Linda Flores

Rep. Rep. Greg Macpherson

GUEST MEMBER: Rep. Tom Butler

Rep. George Gilman

STAFF PRESENT: Janet Adkins, Committee Administrator

Patrick Brennan, Committee Administrator

Cletus Moore, Committee Administrator

Joe O'Leary, Counsel

Bill Taylor, Counsel

Sandy Thiele-Cirka, Committee Administrator

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD:

SB 591 - Reconsideration and Work Session

SB 1018A – Public Hearing

HJM 37 – Public Hearing and Work Session

SB 65A – Public Hearing and Work Session

SJR 34 – Public Hearing and Work Session

SB 408B – Public Hearing

SB 71A – 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 14, A		
003		Calls the meeting to order at 4:02 p.m. and opens a work session on SB 591 relating to pedestrians.

SB 591 – RECONSIDERATION

008	Rep. Boquist	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 591. VOTE: 5-0-0
013	Chair Krieger	Hearing no objection, declares the motion CARRIED.
014	Rep. Boquist	MOTION: Moves to RECONSIDER the vote by which SB 591 was sent to the floor with a DO PASS recommendation. VOTE: 5-0-0
018	Chair Krieger	Hearing no objection, declares the motion CARRIED.

SB 591 – WORK SESSION

018	Chair Krieger	Opens a work session on SB 591.
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019	Joe O'Leary	Counsel. Explains -1 amendments to SB 591 (EXHIBIT A).
032	Sen. Rick Metsger	Senate District 26. Testifies on the amendments which deal with the illegal transfer of property. Refers to letters from the Portland business community regarding the issue of panhandlers (EXHIBITS B & C).
053	Kevin Neely	Department of Justice. Comments that the initial review of this amendment shows this is a defensible position dealing with conduct as opposed to speech.
067	Rep. Macpherson	Describes an actual situation of receiving papers while double-parked on the street and asks if this would be a Class D traffic violation as proposed by the -1 amendment.
082	Sen. Metsger	Responds it would be up to the discretion of law enforcement, but the main objective is to keep people from stopping in the middle of traffic and creating a hazard.
098	Neely	Notes that the Attorney General has no position on the policy.
107	Sen. Floyd Prozanski	Senate District 4. Reviews the history of SB 591 and using the bill as a vehicle for the -1 amendment. Cites an issue with subsection 2 which could be challenged on a constitutional basis. Believes there is a fix under the disorderly conduct statute - ORS 166.025.
142	Sen. Bruce Starr	Senate District 15. Agrees people panhandling at freeway entrances do create a hazard, but will leave a solution to the committee.
171	Sen. Prozanski	Indicates they may have tried to move this amendment too quickly.
201	Rep. Boquist	MOTION: Moves SB 591 to the floor with a DO PASS recommendation.
		VOTE: 5-0-0
		AYE: In a roll call vote, all members present vote Aye.
211	Chair Krieger	The motion CARRIES. REP. MACPHERSON will lead discussion on the floor.

- 215 Chair Krieger Closes the work session on SB 591 and advises SB 208 will not be heard today.
- 224 Chair Krieger Opens a public hearing on SB 1018A.

SB 1018A – PUBLIC HEARING

- 225 Bill Taylor Counsel. Explains SB 1018A which changes qualifications and term of office for Poet Laureate of the State of Oregon.
- 232 Christine D’Arcy Executive Director, Oregon Arts Commission. Testifies in support of SB 1018A.
- 261 Chair Krieger Closes the public hearing on SB 1018A and opens a public hearing on HJM 37 which urges Congress to establish regulation of open ocean aquaculture.

HJM 37 – PUBLIC HEARING

- 285 Rep. Deborah Boone House District 32. Testifies in support of HJM 37 which is based on a similar memorial from Alaska. Points out regulations needed in the open ocean.
- 310 Chair Krieger Closes the public hearing and opens a work session on HJM 37.

HJM 37 – WORK SESSION

- 314 Rep. Boquist **MOTION: Moves HJM 37 be sent to the floor with a BE ADOPTED recommendation.**

VOTE: 5-0-0

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

- 319 Chair Krieger **The motion CARRIES.**
- REP. BOONE will lead discussion on the floor.**

320 Chair Krieger Closes the work session on HJM 37 and opens a public hearing on SB 65A.

SB 65A – PUBLIC HEARING

329 John Minnis Director, Department of Public Safety Standards & Training (DPSST). Explains SB 65A relating to certification of public safety officers.

345 Marilyn Lorance DPSST. Submits written testimony and testifies in support of SB 65A (**EXHIBIT D**). Explains the proposed civil penalty.

373 Rep. Macpherson Questions the definition of a “public safety agency” – if they are public agencies as opposed to regulated providers of private security.

383 Lorance Responds that a civil penalty provision is already in place for private security program.

390 Rep. Macpherson Clarifies that this legislation gives a parallel requirement to “publics” that already exists for “privates.”

396 Minnis Cites an exception for emergency medical dispatch that would come under this certification.

399 Chair Krieger Closes the public hearing and opens a work session on SB 65A.

SB 65A – WORK SESSION

400 Rep. Boquist **MOTION: Moves SB 65A to the floor with a DO PASS recommendation.**

VOTE: 5-0-0

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

410 Chair Krieger **The motion CARRIES.**

REP. BARKER will lead discussion on the floor.

413 Chair Krieger

Closes the work session on SB 65A and opens a public hearing on SJR 34.

TAPE 15, A

SJR 34 – PUBLIC HEARING

- 024 Sandy Thiele-Cirka Committee Administrator. Explains SJR 34 expresses legislative support of plans to transfer into federal trust certain lands acquired by Burns Paiute Tribe.
- 030 Chair Krieger Notes no one is there to testify on the bill; closes the public hearing and opens a work session on SJR 34.

SJR 34 – WORK SESSION

- 033 Rep. Boquist **MOTION: Moves SJR 34 be sent to the floor with a BE ADOPTED recommendation and be placed on the CONSENT CALENDAR.**

VOTE: 5-0-0

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

- 045 Chair Krieger **The motion CARRIES.**
- 050 Chair Krieger Closes the work session on SJR 34.
- 058 Chair Krieger Committee stands at ease; announces the committee will run until 5:30 p.m. and then carry over any bills not heard.
- 091 Chair Krieger Opens a public hearing on SB 408B relating to rates of public utilities. Notes that the bill will not be moved today because amendments are coming; requests testimony from speakers be brief.

SB 408B – PUBLIC HEARING

- 103 Sen. Vicki Walker Senate District 7. Testifies in support of SB 408B. Says Oregon rate payers have been paying on taxes that the utilities have not paid to the

state or federal government. Refers to -B13, -B15 and -B16 amendments (**EXHIBITS E – G**).

- 132 Sen. Rick Metsger Senate District 26. Relates how -B16 amendments improve SB 408A.
- 154 Rep. Tom Butler House District 60. Lists people who will be speaking on SB 408A.
- 170 Jeff Bissonnette Citizens Utility Board of Oregon (CUB). Testifies in support of -B16 amendments. Stresses the importance of this measure to rate payers.
- 192 Michael Early Executive Director, Industrial Customers of Northwest Utilities (ICNU). Discusses the issue of rate payers only being charged for taxes that are actually paid. Urges support of the -B13 amendments.
- 261 Greg Miller Government Affairs Manager, Weyerhaeuser Company. Believes this is the right policy question for the legislature to answer. Urges support of the -B16 amendments.
- 296 Rep. Butler Asks for the differences between the B13s, B15s and B16s to be listed and a copy returned to the committee for comparison. States the -B15s are from the Department of Justice.
- 331 Rep. Boquist Inquires if Mr. Early is most interested in the -16 amendments.
- 332 Early Responds affirmatively.
- 334 Rep. Boquist Asks if the -B16 amendments still need work.
- 336 Early Confirms some adjustments may need to be made, but could be included in the comparison paper.
- 349 Mike McCallum President and CEO of the Oregon Restaurant Association. Testifies in support of SB 408B and the –B16 amendments. Lists other organizations also in support of the –B16 amendments.
- 379 Julie Brandis Associated Oregon Industries. Testifies in support of SB 408A as well as the –B16 amendments.
- 405 Ray Wilkeson

Oregon Forest Industries Council. Testifies in support of SB 408A and the -B16 amendments.

TAPE 14, B

- 019 Pete Shepherd Deputy Attorney General, Department of Justice (DOJ). Submits written testimony and testifies in support of SB 408A (**EXHIBITS I & J**). Refers to amendments by sponsors: -B15 amendments are the DOJ alternative; -B16 amendments are the ICNU amendments; and -B13 amendments are the utilities' proposal. Discusses constitutional limitations and defensibility of the options being considered.
- 082 Shepherd Discusses the policy choices by referring to **EXHIBIT J**. Poses three questions that need to be asked of each proponent. Offers DOJ assistance in further efforts.
- 116 Dan Meek Attorney, Utility Reform Project. Refers to income taxes paid by consumers, but not paid by the utility companies to the state or federal government; gives statistics (**EXHIBIT Q**).
- 155 Meek Gives his opinion on the proposed amendments to SB 408B; points out a number of loopholes. Notes the taxes being charged this year (which will never be paid) will be approximately \$150 million.
- 216 Rep. Butler Questions the ability of the Department of Justice to successfully defend any litigation that may arise from this legislation.
- 233 Shepherd Explains how the language in this legislation (and amendments) could be defended in court.
- 247 Paul Graham Department of Justice (DOJ). Describes the "off ramp" which would give the Commission authority over the automatic adjustment clause.
- 254 Rep. Butler Asks about the issue of symmetry in SB 408B.
- 261 Graham Replies that symmetrical automatic adjustment clauses have been put in the DOJ (B15s) and utility (B13s) version to remove the risk of a constitutional attack.
- 279 Rep. Butler Asks for clarification that the symmetry language is not contained in the -B16 amendments or the original bill from the Senate.

282	Graham	Points out he has not seen the B16s, but confirms it is not in SB 408 from the Senate.
284	Shepherd	Indicates how this issue of symmetry has been disputed by proponents.
293	Rep. Macpherson	Wonders if there is any constitutional problem with saying a tax collected in rates should actually be paid to the state.
304	Shepherd	Says he can't think of a constitutional limitation that would prevent Oregon from increasing taxes which would result in a reduction in money pocketed by the company.
343	Rep. Butler	Discusses changing the structure of the tax to avoid this problem in the future. Questions the tax placed on insurance companies – exempt an excise tax and then charge them a policy premium tax.
372	Shepherd	Isn't sure how insurance companies are taxed.
377	Meek	Shares his proposal for state income taxes of utilities: abolish the state income tax on regulated energy utilities and replace it with a one percent gross receipts tax.

TAPE 15, B

030	Scott Bolton	PacifiCorp. Testifies in support of the -B13 amendments to SB 408A.
037	Sarah Lien	Attorney with Stoel Rives. States the -B13 amendments are the only amendments that are constitutionally solid and will not put customers at risk of large rate increases. Says the -B15 amendments are constitutionally solid, but create a risk of substantial rate increases. Describes numerous flaws found in the -B16 amendments.
091	Lien	Also feels that the -B16s discourage utilities from investing in clean and renewable power as well as their own infrastructure. Concludes that the -B16 amendments would change how rates are set.
144	Gary Bauer	Northwest Natural Gas. No comments.
148	Chair Krieger	Agrees this is a very difficult issue; applauds the work done to date.

155 Chair Krieger Closes the public hearing on SB 408B and opens a public hearing on SB 71A which authorizes issuance of lottery bonds for transportation projects.

SB 71A – PUBLIC HEARING

165 Bruce Warner Director, Oregon Department of Transportation (ODOT). Submits written testimony and testifies in support of SB71A (**EXHIBIT K**). Explains the purpose and history behind *ConnectOregon* and the opportunity this proposal provides to create jobs in the state.

203 Rep. Terry Beyer House District 12. Testifies in support of SB 71A. Comments that the distribution formula could be looked at.

226 Martin Callery Port of Coos Bay. Submits testimony and testifies in support of SB 71A (**EXHIBIT L**). Describes benefits of leverage in transportation investments.

293 Larry Phipps President, Portland Western Railroad and Oregon Shortline Association. Testifies in support of SB 71A. Discusses the leverage used from grants by the railroads in Oregon.

326 Roger Martin Union Pacific Railroad, Alaska Airlines and Oregon Transit Association. Testifies in support of SB 71A. Indicates the Union Pacific Railroad is interested in investing more of its money if Oregon is considering investing money in the state's rail lines.

348 Rep. Boquist Asks if proponents are comfortable with the language in the bill that says not more than 30 percent will go to a single congressional district.

356 Phipps Replies that he is comfortable with that language.

364 Chair Krieger Comments that the bill needs more work so it will not be moved today.

377 Jonathan Schlueter Executive Director, Westside Economic Alliance. Testifies in support of SB 71A.

406 Rep. Greg Smith House District 57. Testifies in support of SB 71A. Discusses how to best support intermodal activity in Oregon.

TAPE 16, A

- 026 Art Schlack Association of Oregon Counties. Testifies in support of SB 71A with a reservation regarding the regional distribution of funds. Recommends utilizing the ODOT regions rather than congressional districts or direct the Oregon Transportation Commission to allocate these funds on a regional equity basis throughout Oregon.
- 051 Pat Egan Port of Portland. Submits testimony and testifies in support of SB 71A (**EXHIBIT M**). Discusses how *ConnectOregon* will meet statewide needs.
- 084 Greg Miller Government Affairs Manager, Weyerhaeuser Company. Testifies in support of SB 71A. Discusses how vital the shortline railroads are in Oregon. Suggests one alternative: intermodal ramp in the central part of the Willamette Valley.
- 113 Rep. Macpherson Questions restrictions on allocating expenditures in certain areas when this proposal is to provide optimal transportation objectives in Oregon.
- 122 Egan Says the Transportation Commission looks at and selects projects on a competitive basis, but a regional distribution formula could be used.
- 144 Rep. Boquist Asks about the breakdown of using 40 percent for loans, 60 percent for grants from the net proceeds of the lottery bonds.
- 148 Miller Replies they have not taken a position on this arrangement.
- 154 Schlack Talks about the expense of transportation projects and the interest in sharing these resources throughout the state.
- 172 Egan Believes the legislature could direct the Transportation Commission to distribute the projects equitably.
- 184 Jessica Harris Associated General Contractors. Testifies in support of SB 71A. Notes AOI (Associated Oregon Industries) is also in support of SB 71A (**EXHIBIT N**).
- 203 Linc Cannon Oregon Forest Industries Council. Testifies in support of SB 71A.

- 214 Terry Witt Oregonians for Food & Shelter. Submits testimony and testifies in support of SB 71A (**EXHIBIT O**). Emphasizes the importance of the shortline railroads in Oregon.
- 232 Rep. George Gilmour House District 55. Asks about ODOT distributing funds by maintenance regions.
- 235 Harris Encourages regional allocation be as widespread as possible.
- 259 Witt Suggests that safety concerns should be taken into account when distributing funds.
- 270 Cannon Agrees regional distribution is important.
- 282 Sen. Bruce Starr Senate District 15. Discusses the issue of an equitable distribution of resources.
- 329 Sen. Starr Addresses the issue of loans vs. grants. Says they could have a one shot deal – give out the \$100 million at once – or create an ongoing source of revenues for these kinds of projects in Oregon.
- 371 Rep. Boquist Expresses concern with the loan portion and not having the time to extend an intermodal program.
- 389 Rep. Gilman Addresses the importance of ODOT regions being included in the legislation.
- 414 Rep. Boquist Notes three of the five congressional districts are in the Portland area.

The following prepared testimony is submitted for the record without public appearance.

- Fred Nussbaum Association of Oregon Rail and Transit Advocates (AORTA). Submits written testimony in support to SB 71A (**EXHIBIT P**).
- 421 Chair Krieger Closes the public hearing on SB 71A. Notes that the following bills are being carried over: SJR 10, SB 1032A, SB 572A and HB 2009.

DRAFTING REQUEST– WORK SESSION

- 432 Rep. Boquist

MOTION: Moves the committee request permission from Speaker Minnis to request a BILL DRAFT relating to veterans and military personnel.

VOTE: 5-0-0

435 Chair Krieger Hearing no objection, declares the motion CARRIED.

440 Chair Krieger Adjourns the meeting at 6:17 p.m.

EXHIBIT SUMMARY

- A. **SB 591, -1 amendments, staff, 1 p**
- B. **SB 591, written testimony of Patrick Donaldson, Sen. Metsger, 1 p**
- C. **SB 591, written testimony of Peggy Anderson, Sen. Metsger, 1 p**
- D. **SB 65, written testimony, Marilyn Lorance, 1 p**
- E. **SB 408, -B13 amendments, staff, 10 pp**
- F. **SB 408, -B15 amendments, staff, 10 pp**
- G. **SB 408, -B16 amendments, staff 8 pp**
- H. **SB 408, written testimony, Michael Early, 9 pp**
- I. **SB 408, written testimony, Pete Shepherd, 5 pp**
- J. **SB 408, DOJ alternative chart, Pete Shepherd, 2 pp**
- K. **SB 71, written testimony, Bruce Warner, 2 pp**
- L. **SB 71, written testimony, Martin Callery, 2 pp**
- M. **SB 71, written testimony, Pat Egan, 2 pp**
- N. **SB 71, written testimony of John Ledger, Jessica Harris, 1 p**
- O. **SB 71, written testimony, Terry Witt, 1 p**
- P. **SB 71, written testimony of Fred Nussbaum, staff, 1 p**
- Q. **SB 408, written testimony, Dan Meek, 2 pp**