

SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

February 10, 2005
1:00 P.M.

Hearing Room B
Tapes 20 - 21

MEMBERS PRESENT: **Sen. Rick Metsger, Chair**
 Sen. Bruce Starr, Vice-Chair
 Sen. Jason Atkinson
 Sen. Ryan Deckert
 Sen. Laurie Monnes Anderson

STAFF PRESENT: **Theresa Van Winkle, Committee Administrator**
 James Goulding, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 318 – Public Hearing
 SB 209 – Public Hearing
 SB 213 – Public Hearing
 Work Session – Introduction of committee measures
 SB 309 – 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 20, A		
003	Chair Metsger	Calls the meeting to order at 1:10 p.m. Opens as a subcommittee. Opens a public hearing on SB 318.
<u>SB 318 – PUBLIC HEARING</u>		
020	Marcia Keith	Oregon Veterinary Medical Association. Presents her written testimony in favor of SB 318 (EXHIBIT A).
040	Chair Metsger	Observes that a full committee is now present.
045	Lori Makinen	Director, Veterinary Medical Examining Board. Submits written testimony in favor of SB 318 (EXHIBIT B) and a related <i>Oregonian</i> article (EXHIBIT C). Begins presentation on the bill and suggests some amendments.
070	Maureena Schmaing	Begins testimony in favor of the bill. Outlines the abuses committed by a veterinarian. Outlines attempts at stopping the individual from practicing veterinary medicine.
095	Chair Metsger	Clarifies the points she is making. Summarizes that the veterinary board does not have the power to take action in this circumstance.
100	Keith	Notes that they could make a recommendation but not take any real action.
105	Sen. Monnes Anderson	Asks what powers the board has if abuse has been proven.
110	Keith	Replies they can take action if a veterinarian commits abuse. States it takes a long time to establish guilt.
120	Sen. B. Starr	Asks the definition of “unprofessional or dishonorable conduct” in SB 318.
125	Keith	Asks for clarification on which part of the bill he is looking at.

130	Sen. B. Starr	Notes a section from SB 318. Reads from that section of the measure.
135	Keith	Clarifies the statement in the bill. Reads from ORS 686.150. States this applies in a situation where a licensee is practicing veterinarian medicine. Discusses the investigation and the feelings of the board that harm could be done if action was not taken.
155	Sen. B. Starr	Observes that the attorney general would decide “unprofessional or dishonorable conduct” in relation to the practice of veterinary medicine.
160	Chair Metsger	Clarifies that the “dishonorable conduct” from the statute is specific to conduct under the practice of medicine. Relates it does not cover animal neglect, only application of medicine.
170	Keith	Concurs with that assessment.
175	Tessa Sage	Portland, Oregon resident. Testifies in favor of SB 318. Submits testimony for Susan Ford Burns (EXHIBIT D) and Kathy Jones (EXHIBIT E).
210	Chair Metsger	Outlines the amendment request submitted by Marcia Keith. Explains the amendments. Discusses taking action at another time. Closes public hearing on SB 318. Opens public hearing on SB 209.

SB 209 – PUBLIC HEARING

245	Cheryl Pellegrini	Department of Justice, Financial Fraud/Consumer Protection Unit. Submits written testimony in favor of SB 209 (EXHIBIT F) Outlines the need for protection from price gouging.
390	Chair Metsger	Wonders who the Department of Justice worked with to produce this proposal.
400	Pellegrini	Replies they did not seek out the assistance from outside the department. Relates previous legislative efforts and the need to address concerns.
420	Chair Metsger	Offers that he is disappointed that no one else signed up to testify.
TAPE 21, A		
005	Sen. B. Starr	Asks how the department would feel if they amended the process of the governor issuing a proclamation, in the case the governor was incapacitated.
010	Pellegrini	Replies she thinks it’s a good idea. Points out disaster price gouging takes a period of time to occur.
020	Sen. B. Starr	Inquires if unlicensed contractors are already breaking the law, how they would prevent them from breaking this law.
030	Pellegrini	Replies that unlicensed contractors are subject to civil penalties.
050	Sen. B. Starr	Reiterates his desire to know how the department would prevent gouging by unlicensed contractors.
055	Pellegrini	Replies that this bill is aimed at those who raise prices for no reason other than to take advantage of a specific event.
065	Sen. B. Starr	Offers that the situation would still occur under this law.
070	Pellegrini	Replies the bill will provides immediate access through the judicial process to stop price gouging.
077	Sen. Deckert	Inquires about a section in the bill dealing with a governor’s proclamation establishing the geographic size of an area affected. Feels the wording is vague and could be made more specific by establishing a size in square miles.
090	Pellegrini	Feels it is an amendment that could be considered. Notes Mr. Ebersole has some details to ask.
097	Chair Metsger	Asks Mr. Ebersole to address the committee.

100	Eugene Ebersole	Assistant Attorney General. Discusses the original drafting of the measure. Talks about the large areas that could be affected by a catastrophe. Feels the governor needs flexibility to declare a large area.
120	Ebersole	Offers that a governor is not going to declare an emergency zone for a small area. Makes further comments on the potential for price fixing in the time of a catastrophic event.
145	Chair Metsger	Asks if there is anyone else who wishes to testify.
150	Julie Brandis	Associated Oregon Industries. Comments that hotels are not covered in this act. Wonders how this measure would give extra teeth to the law. Feels it would create additional litigation. Describes the competitive nature of retailing and the importance of reputation amongst consumers. Relates businesses in Florida helping to keep prices low following the disastrous 2004 hurricane season. Seeks tightening of the law.
180	Chair Metsger	Asks if she has additional suggestions to the ones already brought up.
183	Brandis	States she would like to look at the 20% figure and how it applies to competitive nature of retailers.
185	Chair Metsger	Relates the advantages of these particular measures. Talks about the restraining effect of public opinion. Feels the department of justice should have some ability to respond to these types of events. Comments on the importance of having the legislation in place.
210	Sen. B. Starr	Wonders if anyone from the housing industry would like to comment.
220	Chair Metsger	Notices Scott Barrie in the back of the room. Sees that he declines to comment on the issue at this time. Asks that they have additional input before moving this measure forward.
235	Sen. B. Starr	Offers that petroleum is not mentioned in the bill.
240	Pellegrini	States that issue has been a hurdle before. Offers that they are trying to start with a narrow version of the law and work from there.
250	Chair Metsger	Advises that they work with the committee administrator to resolve their problems and amend the bill. Closes public hearing on SB 209. Opens public hearing on SB 213.

SB 213 – PUBLIC HEARING

260	Eugene Ebersole	Senior Assistant Attorney General, Department of Justice. Submits written testimony in favor of SB 213 (EXHIBIT G).
290	Ebersole	Discusses insurance problems facing contractors.
330	Ebersole	Relates the problems of consumers assuming a contractor is licensed.
370	Ebersole	Concludes with the efforts and resources expended to deal with unlicensed contractors.
390	Michael Snyder	Administrator for Landscape Contractor's Board. Testifies in favor of SB 213. Feels it gives additional tools that the Department of Justice needs.
410	Scott Barrie	Oregon Home Builders Association. Offers his concerns on the bill. Points out that the licensed contractors do want help with unlicensed builders. Talks about his concern with the scope of the problem.

TAPE 20, B

005	Barrie	Continues to outline his concerns over the scope of the bill.
025	Chair Metsger	Summarizes Mr. Barrie's concerns. Notes his concerns on the

		scope of power. Wonders about a compromise that could be worked out.
035	Barrie	Agrees a compromise could be worked out. Reiterates his concerns with the bill as drafted.
040	Shawn Miller	Associated Builders and Contractors. Notes his concerns are similar to Mr. Barrie's. Provides an example of work done in the interim with plumbers. Desires a way to look privately at some of these issues.
075	Steven Kafoury	Oregon Remodelers Association. Discusses the establishment of the Construction Contractors Board. Relates history of the attorney general's efforts to correct this problem. Feels they had overstepped the power they needed, relates compromises that were made. Talks about working out an arrangement with the attorney general's office.
100	Sen. Deckert	Outlines his concerns that the attorney general's staff does not work weekends.
105	Miller	Replies that falls under collective bargaining agreements over employment.
110	Kafoury	Interjects that a homeowner could bring a lawsuit against an unlicensed contractor.
115	Sen. Deckert	Offers that they need investigators who can work when these problems are occurring.
120	Kafoury	Feels the problem is severe enough to warrant that action.
125	Miller	Discusses an independent pilot project along those lines, but for investigating electrical licenses.
135	Chair Metsger	Summarizes that they are looking at two issues, the powers to go after unlicensed contractors and locating the perpetrators. Notes the concerns on the bill, and feels a compromise needs to be reached between the parties.
160	Sen. B. Starr	Asks Mr. Ebersole if the Construction Contractor's Board (CCB) is supporting this.
165	Ebersole	Replies they are neutral on this issue. Clarifies the comments of the previous testimony and that the bill is only giving precise powers. Feels the bill is focused enough. Notes the Landscape Contractor's Board (LCB) and CCB overlap, and the problems that result.
200	Chair Metsger	Reiterates the need to cooperate on the bill.
210	Ebersole	Clarifies that they do not get all their cases from CCB, talks about their consumer hotline.
215	Barrie	Notes that workers licensed through the building codes division are also insured through CCB for their licensing and bonding.
220	Chair Metsger	Closes work session on SB 213. Opens a work session for introduction of committee measures.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

225	Theresa Van Winkle	Committee administrator. Explains LC 2644(EXHIBIT H) and LC 254(EXHIBIT I).
235	Chair Metsger	Reminds committee members that introducing the measures into the process does not indicate support or opposition.
240	Sen. B. Starr	MOTION: Moves LC's: 2644, 254 BE INTRODUCED as committee bills.
		VOTE: 4-0-1
		EXCUSED: 1 - Atkinson
245	Chair Metsger	Hearing no objection, declares the motion CARRIED.
250	Chair Metsger	Closes work session, opens a public hearing on SB 309.

SB 309 – PUBLIC HEARING

255	Tom Linstrom	Beaver Creek Co-op Telco. Offers a potential amendment to SB 309 (EXHIBIT J). Testifies in favor of the bill and explains it.
280	Linstrom	Addresses concerns that SB 309 will do more than they intended it to do. Offers description of the functioning of a co-op.
320	Linstrom	Points out that they do serve an area covered by Qwest, but since they function as a true co-op they are not in direct competition with them.
360	Chair Metsger	Wonders what it is about the current process that is unfair to Beaver Creek that would require this legislation.
370	Linstrom	Replies that there is a roadblock to competition. Talks about the tax status of a co-op and the distribution of excess rates back to members.
400	Sen. Monnes Anderson	Asks what the basic phone rate for their members is.
405	Linstrom	Replies that local only telephone service is one dollar. Offers they have a network access charge, further explains the coverage and prices.
425	Sen. Monnes Anderson	Wonders what the average household pays for telephone service.
TAPE 21, B		
005	Linstrom	Estimates that average co-op households would pay about \$20 a month.
010	Brant Wolf	Oregon Telecommunications Association (OTA). Declares their opposition to the bill.
015	Mitchell Moore	President, Clear Creek Telephone and Television. Presents written testimony in opposition to the bill (EXHIBIT K).
060	Keith Galitz	President and General Manager, Canby Telephone Association. Testifies in opposition to the bill. Observes that no other phone company or co-op supports this bill.
085	Sen. Monnes Anderson	Asks what the “85/15” test signifies.
087	Galitz	Defines that it means you cannot earn more than 15%, and no less than 85%, of total revenues from activities outside of the telecommunications business. Explains that if the limit is exceeded the co-op will have to pay taxes.
100	Chair Metsger	Wonders why this bill is streamlined for Beaver Creek.
105	Linstrom	Feels that the bill applies to all co-ops in Oregon and not just Beaver Creek. Clarifies the way in which this bill could assist all co-ops.
135	Chair Metsger	Asks Mr. Galitz to respond to Linstrom’s remarks.
140	Galitz	Feels the bill makes confusion and conflict. States he currently has to factor the rules into his business practices. Offers he can achieve his goals without this bill.
160	Sen. Deckert	Muses that co-ops already have a huge advantage because of their tax status.
175	Linstrom	Outlines some of the competition co-ops face. Talks amount the services they can provide to rural companies. Discusses the special protections that have kept their co-op running.
190	Sen. Deckert	Asks if they are protected through their tax status as a co-op.
195	Linstrom	Replies that is not the only protection. Makes further comments on the services they can provide.
210	Chair Metsger	Asks Lee Beyer to come forward.
215	Lee Beyer	Chair, Oregon Public Utility Commission (OPUC). Presents a

		map of telephone service territories (EXHIBIT L). Testifies in opposition to the bill.
245	Beyer	Outlines the levels of competition within the business. Discusses his confusion over the intent of the bill.
275	Beyer	Feels that in effect the bill would give co-ops too much of an advantage. Outlines the problems involved with that.
305	Beyer	Observes that under this legislation a co-op could choose any service territory they wanted without being challenged.
325	Chair Metsger	Closes public hearing on SB 309. Adjourns the committee at 2:57 p.m.

EXHIBIT SUMMARY

- A. **SB 318, Written testimony, Marcia Keith, 1 p**
- B. **SB 318, Written testimony, Lori Makinen, 2 pp**
- C. **SB 318, *Oregonian* Article, Lori Makinen, 2 pp**
- D. **SB 318, Written testimony of Susan Ford Burns, Tessa Sage, 2 pp**
- E. **SB 318, Written testimony of Kathy Jones, Tessa Sage, 1 p**
- F. **SB 209, Written testimony, Cheryl Pellegrini, 14 pp**
- G. **SB 213, Written testimony, Eugene Ebersole, 3 pp**
- H. **Introductions, LC 2644, staff, 6 pp**
- I. **Introductions, LC 254, staff, 1 p**
- J. **SB 309, Proposed Amendment, Tom Linstrom, 1 p**
- K. **SB 309, Written testimony, Mitchell Moore, 3 pp**
- L. **SB 309, Map of Oregon Telephone Exchange Areas, Lee Beyer, 1 p**