

SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

February 3, 2005
1:00 P.M.

Hearing Room B
Tapes 16 - 17

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 120 – Public Hearing
 SB 121 – Public Hearing and Work Session
 SB 83 – Public Hearing and Work Session
 SB 86 – 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 16, A		
003	Chair Metsger	Calls the meeting to order at 1:05 p.m. Notes that the proposed amendments to SB 55 are not yet ready. States they will not be able to have a public hearing on SB 55 today. Opens public hearing on SB 120.
<u>SB 120 – PUBLIC HEARING</u>		
010	Theresa Van Winkle	Committee Administrator. Provides a brief overview of SB 120.
025	David Tatman	Deputy Administrator, Department of Consumer and Business Services (DCBS). Notes he is filling in for Administrator Floyd Lanter, who was unable to appear before the committee today. Presents written testimony of Floyd Lanter in favor of SB 120 (EXHIBIT A).
050	Tatman	Expands upon the written testimony, clarifying the different programs and the need for uniformity.
080	Tatman	Discusses the need for additional ability to enforce their laws.
095	Sen. Atkinson	Refers to Mr. Tatman's testimony about a case in Eugene where they needed to issue a cease and desist order. Wonders that if they didn't have the power to issue one, how were they able to resolve the problem.
100	Tatman	Replies they took action and were able to reach a settlement.
105	Sen. Atkinson	Notes that was only one instance and wonders how often cases of this type occur. Wonders what the problem is that is being fixed.
107	Tatman	Reiterates it gives them the authority to act and solve these problems.
110	Sen. Atkinson	Asks if this will lead to requests for more funds so they can

		monitor companies.
115	Tatman	Responds they will not be requesting that.
117	Sen. Atkinson	Wants greater clarification on the purpose for granting them more regulatory power. Feels government is being granted more tools to work with than small businesses.
120	Tatman	States they need to be able to take action to fulfill their mandate. Feels a cease and desist order is more effective than a court procedure.
130	Sen. B. Starr	Observes that before taking action against unlicensed businesses, that they should be trying to get them licensed first.
140	Tatman	Concurs with his observation. Points out the scenarios in which the department would need this authority. Feels if they had the needed authority they could enforce laws more effectively.
160	Chair Metsger	Clarifies the situation and the current need for court action. Feels they are making sure businesses are competing fairly and following the rules.
175	Sen. Monnes Anderson	Asks if there is a fiscal impact on this.
180	Tatman	Doesn't believe there will be an impact. Shares his belief that they already have the staff and resources to handle it.
185	Sen. Deckert	Inquires on the width of this problem and how often it occurs.
190	Tatman	Replies it depends on the specific business area. Relates it is fairly common in pawnbroker industry.
200	Sen. Deckert	Asks about how many cases it is.
205	Tatman	Replies he could provide him with figures at another time.
210	Amy Lowry	Funeral home operator. Offers her support of SB 120. Feels it is a good thing for the consumer after hearing about the cases in Eugene. Voices support for consumer protection and the bill.
245	Floyd Lanter	Administrator, Division of Finance and Corporate Securities. Begins testifying in support of SB 120.
290	Chair Metsger	Wonders how often these problems occur.
300	Lanter	Provides examples for occasions where businesses operate without licenses and they do not have authority to pursue them when consumers complain. Outlines examples where they write letters to unlicensed businesses and receive no responses. Discusses problems with unlicensed pawn brokers, and details investigations.
360	Sen. B. Starr	Inquires why it is the responsibility of DCBS to go and use authority to get businesses licensed.
370	Lanter	Outlines they have no authority.
380	Sen. B. Starr	Relates his experiences as construction contractor and the authority of the board to go after unlicensed contractors.
390	Lanter	Presumes they have the authority to recover the costs of their investigations.
400	Sen. B. Starr	Hopes that before they move forward they have more data on how often violations occur and their current enforcement abilities.
415	Sen. Atkinson	Voices his support for the funeral director portion of the bill, but feels the bill currently covers too many areas for him to be comfortable with it.
TAPE 17, A		
010	Chair Metsger	Feels they should hold onto this bill and await further testimony. Closes public hearing on SB 120, opens public hearing on SB 121.

SB 121 – PUBLIC HEARING

025	Lanter	Reads written testimony in favor of SB 121 (EXHIBIT B).
070	Chair Metsger	Asks for a specific example where their department has lacked the ability to issue a cease and desist order.
075	Lanter	Offers they spent a lot of time pursuing a case involving the purchase of a pizza oven during the previous year. Discusses franchise issues that are pending.
095	Sen. Atkinson	Wonders if all the complaints are from out-of-state franchises.
100	Lanter	Offers their focus is on Oregonians investing in franchises, not the out-of-state franchises themselves.
105	Sen. Deckert	Asks for clarification of the issue with the oven purchase.
110	Lanter	States it involved the purchase of a pizza oven being sold by a franchise operation in California. Discusses the complaint and investigation that resulted. Enters into more detail on the issue.
125	Sen. Deckert	Inquires if this is a typical case.
130	Lanter	Replies the problem resulted in improper disclosure by the seller.
132	Sen. Deckert	Clarifies Mr. Lanter’s comments on the intent of this legislation.
140	Chair Metsger	Asks if Mr. Tatman has additional comments
145	David Tatman	Offers greater details on the franchise owner paid a specific fee to purchase an oven that had certain capabilities. Relays that the oven did not operate as promised and that it was very difficult to remedy the situation.
150	Sen. Deckert	Wonders who judges these cases.
155	Tatman	Notes they act on behalf of Oregonians with complaints and then act as necessary.
170	Chair Metsger	Closes public hearing on SB 121, opens work session on SB 121.

SB 121 – WORK SESSION

190 Sen. B. Starr MOTION: Moves SB 121 to the floor with a DO PASS recommendation.

VOTE: 5-0-0

193 Chair Metsger Hearing no objection, declares the motion CARRIED.

SEN. METSGER will lead discussion on the floor.

195 Chair Metsger Closes work session on SB 121. Opens a public hearing on SB 83

SB 83 – PUBLIC HEARING

200	Paul Kluvers	Structural Engineers Association. Testifies in favor of SB 83. Discusses an error introduced in earlier legislation. Remarks how SB 83 would correct the issue.
210	Mari Lopez	Executive Secretary, Oregon State Board of Examiners for Land Surveying (OSBEELS). Introduces Mr. Bob Walker.
220	Bob Walker	Former board member, OSBEELS. Notes he was on the board when the error was discovered. Discusses building codes and the need to correct the statute error. Notes structure sizes where an architect or engineer is required.
255	Dan Linscheid	Yamhill County Surveyor, OSBEELS board member. Testifies in support of SB 83.
265	Chair Metsger	Asks if anyone has taken advantage of the error in current law.
270	Linscheid	Responds there have been a few minor instances.
275	Sen. B. Starr	Clarifies that this bill only covers essential structures.
280	Linscheid	Concurs that he is correct.
285	Sen. B. Starr	Clarifies the meaning of essential facilities.
290	Linscheid	Defines essential structures as response facilities such as fire and police stations.

295	Sen. B Starr	Reads off a list of structures currently defined as essential.
300	Jennifer Gilbert	Executive assistant, OSBEELS. Testifies on behalf of the board in support of SB 83.
305	Sen. Deckert	Wonders if those represented by the board are all in support of SB 83.
310	Gilbert	Expresses agreement.
315	Chair Metsger	Closes public hearing on SB 83. Opens a work session on SB 83.

SB 83 – WORK SESSION

320 Sen. B. Starr MOTION: Moves SB 83 to the floor with a DO PASS recommendation.

VOTE: 5-0-0

323 Chair Metsger Hearing no objection, declares the motion CARRIED. SEN. B. STARR will lead discussion on the floor.

325 Chair Metsger Closes work session on SB 83. Opens a public hearing on SB 86.

SB 86 – PUBLIC HEARING

330	Lopez	Testifies in support of SB 86. Offers the bill would require engineers to stamp their documents.
347	Linscheid	States his support for SB 86.
360	Chair Metsger	Expresses his understand of the function of the bill. Asks what the issue is that they are trying to resolve.
367	Linscheid	Notes that engineers are exempt from having to stamp their documents. Offers this would grant some authority over engineers.
370	Chair Metsger	Clarifies that they are trying to make engineers accountable by requiring a stamp. Wonders why they were exempted to begin with.
373	Gilbert	Replies she doesn't know the history of it.
375	Linscheid	Offers he doesn't know when it occurred, but explains that the loophole occurred with the significant structures law was put into place.
377	Chair Metsger	Notes the original law was passed in 1999.
380	Sen. B. Starr	States his concerns with language in the bill addressing residential structures. Asks if those structures would require an engineer's stamp, or if it would only need one if an engineer worked on the project.
395	Gilbert	Agrees.
400	Sen. B. Starr	Wonders what the problem is that this bill is addressing.
405	Linscheid	Replies that they currently have no ability to sanction engineers for poor workmanship on an exempt project.

TAPE 16, B

005	Linscheid	Concludes his comments on bringing engineers into line.
010	Chair Metsger	Remarks that this bill is aiming to create an equal professional standard.
015	Linscheid	Concurs that the intent is to create uniformity.
020	Sen. Atkinson	Comments on recent legislation he has been hearing. Wonders if there is any real need for this law.
027	Lopez	Replies it is necessary for architecture laws.
030	Sen. Atkinson	Wonders if they will be hearing from architects on this issue.
032	Chair Metsger	Calls for a brief recess at 2:06 p.m.
035	Chair Metsger	Calls the committee back at 2:07 p.m. Remarks that they will need more testimony on this bill. Closes public hearing on SB 86. Adjourns the meeting at 2:08 p.m.

EXHIBIT SUMMARY

- A. **SB 120, Written testimony of Floyd Lanter, David Tatman, 5 pp**
- B. **SB 121, Written testimony, Floyd Lanter, 3 pp**