

SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

March 24, 2005
1:00 P.M.

Hearing Room B
Tapes 48 - 49

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

GUEST MEMBER: Sen. Vicki Walker

STAFF PRESENT: Theresa Van Winkle, Committee Administrator
James Goulding, Committee Assistant
Paul Warner, Legislative Revenue
Dexter Johnson, Legislative Counsel

MEASURES/ISSUES HEARD:
SB 171 – Public Hearing
SB 323 – Public Hearing and Work Session
SB 1002 – Work Session
SJM 2 – Public Hearing 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 #, A		
003	Chair Metsger	Calls the committee to order at 1:12 p.m. Opens a public hearing on SB 171.
<u>SB 171 – PUBLIC HEARING</u>		
007	Chair Metsger	Remarks on -4 amendments to the measure before the committee (EXHIBIT A).
024	Lee Beyer	Chair, Oregon Public Utility Commission (PUC). Begins by testifying on the PUC's positions on the measure.
035	Sen. Monnes Anderson	Inquires which section he is discussing.
037	Beyer	Replies that he is currently discussing the PUC's recommendations. Continues his testimony on SB 171.
060	Beyer	Voices the reasons they would not recommend a trueup.
075	Chair Metsger	Outlines the issues before the committee. Talks about ratepayer services.
090	Sen. Atkinson	Wonders who the fix is directed at, now that Enron is out of the picture.
097	Beyer	Replies that what they are doing comes out of the Enron situation.
120	Sen. Atkinson	Speculates what might occur without the -4 amendments.
125	Beyer	Comments.
127	Sen. Atkinson	Considers what would happen with the adoption of the -4

		amendments.
129	Beyer	Declines to speculate.
135	Sen. B. Starr	Asks how many Oregon utilities would be subject to the -4 amendments.
140	Beyer	Responds that he hasn't had ample opportunity to scrutinize the -4 amendments.
157	Chair Metsger	Asks Mr. Warner to clarify the statute in question.
160	Paul Warner	Legislative Revenue Staff. Clarifies the statute.
170	Sen. B. Starr	Discusses with Chair Metsger the original intent of the amendment and a potential error in the -4s. Questions the changes in scope for the PUC.
180	Beyer	Offers that it should not present the PUC with a higher workload.
190	Sen. Deckert	Notes the heart of the matter is consolidated versus unconsolidated tax returns. Questions if they could define that new type of hybrid business or "liger".
210	Beyer	Observes these are outside of the PUC purview, but are important to be defined.
230	Chair Metsger	Hopes to consider this matter further.
243	Sen. Vicki Walker	Senate District 7. Asks Mr. Beyer about creating a more realistic picture of tax applications with the -4 amendments.
253	Beyer	Clarifies the amount paid by utilities in taxes.
287	Sen. Walker	Observes the -4 proposal's affect on tax obligations.
297	Beyer	Replies in regard to tax laws.
307	Sen. Walker	Discusses the spreading of liability through benefits.
309	Chair Metsger	Asks Mr. Warner to detail the -4 amendments.
320	Warner	Details the provisions of the -4 amendments to SB 171.
360	Warner	Walks the committee through the sections of the -4 amendment.
380	Sen. Monnes Anderson	Considers how many entities would be covered under that particular section.
389	Warner	Clarifies that it refers back to section three of the measure.
413	Dexter Johnson	Legislative Counsel. Notes that the point in question was a drafting error.
417	Warner	Expounds on the definition.
427	Sen. Monnes Anderson	Considers that she is still not clear on the review of rate schedules.
TAPE 49, A		
005	Warner	Relates the calculation of tax rates.
010	Chair Metsger	Reiterates the process of filing a non consolidated tax return.
013	Warner	Resumes describing the sections of the -4 amendments to SB 171.
025	Chair Metsger	Asks for an analysis of the possibility of different tax requirements for utilities.
027	Johnson	Details the basic statement of the current law. Points out the ways in which different entities are taxed.
045	Chair Metsger	Suggests he narrow that definition further as it applies to public utilities.
050	Johnson	Replies in regard to those types of utilities and their rate regulations.
057	Warner	Observes the changes last session to the apportionment formula and the related statutes that reference utilities.
070	Dan Meek	Attorney, Multnomah County. Testifies in regards to a complaint he filed against the PUC. Relates the charges that Portland General Electric (PGE) has applied to user fees for taxes they have not paid.

110	Meek	Elaborates on tax violations he has observed with PGE. Talks about a pending lawsuit against PGE pending in Multnomah circuit court.
140	Meek	Observes the flaws in the PUC's method of evaluating the rates of utilities.
153	Chair Metsger	Appreciates his observations. Asks about the findings of his research.
167	Meek	Replies that his research is limited to the activities of PGE. Notes observations he has made in regards to the PUC not asking utilities how much they pay in taxes.
190	Meek	Advocates that the PUC take the time to ask utilities what they pay in taxes.
197	Sen. Deckert	Notes the tax laws enacted by the legislature. Points out that the PUC does not have jurisdiction over tax law.
217	Meek	Points out this is not a tax issue, but a regulatory issue.
225	Sen. Deckert	Questions what his suggested remedy would be.
233	Meek	Submits his recommendations for rate regulations.
257	Sen. Deckert	Asks if Chair Beyer wishes to respond to Mr. Meek's proposal.
265	Beyer	Replies that the PUC makes adjustments in the rate setting process. References that the attorney general does not agree with Mr. Meek's interpretation.
275	Chair Metsger	Summarizes the comments made. Asks Mr. Lynch to testify.
293	Kevin Lynch	PacificCorp. Submits to any questions the committee has.
295	Chair Metsger	Requests for his evaluation of the PUC's recommendation.
305	Lynch	Refers back to the comments made by Sen. Deckert. Discusses the differences in structure of a utility business.
345	Lynch	Details energy industry in Oregon.
390	Lynch	Comments on the tax credit incentives for utilities.
TAPE 48, B		
005	Lynch	Mentions the legislature's use of the tax code as a business incentive.
013	Chair Metsger	Notes the intent of the legislation.
017	Sen. B. Starr	Asks his reaction to the language in the measure.
019	Lynch	Replies.
023	Sen. B. Starr	Inquires about the possible impact on related Oregon jobs.
027	Lynch	Discusses the employment structure.
040	Chair Metsger	Reiterates the points Senator Starr brought up.
050	Elizabeth Harchenko	Director, Oregon Department of Revenue.
053	Chair Metsger	Asks Ms. Harchenko to comment on the amendments.
057	Harchenko	Makes general comments on the amendments and the tax implications.
080	Harchenko	Notes the income transactions taking place.
115	Harchenko	Suggests technical changes and narrowing the scope of the measure.
120	Chair Metsger	Discusses previous conversations of this issue.
130	Sen. B. Starr	Asks what this change would mean to Ms. Harchenko's department.
135	Harchenko	Feels if it is narrow in scope it will not cause an appreciable change in how they do their work.
147	Chair Metsger	Suggests that staff make additional changes to the bill to narrow the scope. Offers additional summarizing comments. Closes public hearing on SB 171. Opens a public hearing SB 323.

SB 323 – PUBLIC HEARING

180	Sen. Walker	Introduces SB 323 and asks Ms. Harchenko to describe the
-----	-------------	--

190	Harchenko	measure.
230	Harchenko	Describes SB 323 and testifies in favor of it. Discusses the proposed -2 amendments (EXHIBIT B).
267	Tom Gallagher	Observes the issues that have arisen with the amendments. Notes the proposed -3 amendments that Mr. Gallagher submitted (EXHIBIT C). Advocates they pass SB 323 without amendments.
269	Chair Metsger	Oregon Newspaper Association. Agrees with Ms. Harchenko that they work out any changes needed.
273	Harchenko	Clarifies Mr. Gallagher's concerns.
293	Chair Metsger	Points out the need to address Mr. Gallagher's concern. Offers that the bill be amended in the House.
297	Harchenko	Notes Ms. Harchenko's department might have the means to address these concerns.
303	Sen. Walker	Concurs that they do.
320	John Draneas	States that even if they do not pass this bill there is operative legislation in place. Feels this measure is ready to be moved to the House for further action.
350	Chair Metsger	Oregon State Bar. Speaks in favor of SB 323 as drafted. Opposes the proposed amendments. Notes that now the amendments have been withdrawn and he is in full support of SB 323.
		Closes public hearing on SB 323. Opens a work session on SB 323.

SB 323 – WORK SESSION

363 Sen. B. Starr

MOTION: Moves SB 323 to the floor with a DO PASS recommendation.

365

VOTE: 3-0-2

EXCUSED: 2 - Atkinson, Deckert

Hearing no objection, declares the motion CARRIED.

SEN. WALKER will lead discussion on the floor.

Chair Metsger

Closes work session on SB 323. Opens public hearing on SJM 2.

367 Chair Metsger

SJM 2 – PUBLIC HEARING

375 Sen. Walker

Introduces and explains the measure. Defers to Mr. Lanter Department of Consumer and Business Services. Presents written testimony in favor of SJM 2 (**EXHIBIT D**).

400 Floyd Lanter

TAPE 49, B

003 Lanter

Recommends the passage of SJM 2.

006 Cheryl Pellegrini

Assistant Attorney General, Oregon Department of Justice. Testifies in favor of SJM 2. Submits a letter in favor of SJM 2 (**EXHIBIT E**).

039 Chair Metsger

Closes public hearing on SJM 2. Opens a work session on SB 1002.

SB 1002 – WORK SESSION

048 Chair Metsger

Requests an overview of the proposed amendments.

050 Dana

Describes the modifications proposed -2 amendments would make to SB 1002 (**EXHIBIT F**).

057 Chair Metsger

Reiterates the changes. Puts the committee at ease at 2:40 p.m.

066 Chair Metsger

Calls the committee back to order at back at 2:42 p.m.

067 Sen. B. Starr

MOTION: Moves to ADOPT SB 1002-2 amendments dated 03/22/05.

068

VOTE: 4-0-1

EXCUSED: 1 - Deckert

Chair Metsger

Hearing no objection, declares the motion CARRIED.

070	Sen. B. Starr	MOTION: Moves SB 1002 to the floor with a DO PASS AS AMENDED recommendation.
072	Sen. B. Starr	Asks if they have had any testimony from building industries.
075	Chair Metsger	Replies they are aware, but have not offered any testimony.
078		VOTE: 4-0-1
		EXCUSED: 1 - Deckert
	Chair Metsger	Hearing no objection, declares the motion CARRIED.
		SEN. SCHRADER will lead discussion on the floor.
083	Chair Metsger	Closes work session on SB 1002. Opens a work session on SJM 2.
<u>SJM 2 – WORK SESSION</u>		
087	Sen. B. Starr	MOTION: Moves SJM 2 be sent to the floor with a BE ADOPTED recommendation.
089		VOTE: 4-0-1
		EXCUSED: 1 - Deckert
	Chair Metsger	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
090	Chair Metsger	Closes work session on SJM 2. Adjourns the committee at 2:49 p.m.

EXHIBIT SUMMARY

- A. SB 171, -4 amendments, staff, 7 pp
- B. SB 323, -2 amendments, staff, 2 pp
- C. SB 323, -3 amendments, staff, 2 pp
- D. SJM 2, Written testimony, Floyd Lanter, 13 pp
- E. SJM 2, Letter, Cheryl Pellegrini, 19 pp
- F. SB 1002, -2 amendments, staff, 1 p