

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

August 23, 2003 Hearing Room E
2:00 PM Tapes 139 - 140

MEMBERS PRESENT: **Rep. Dan Doyle, Chair**
 Rep. Linda Flores, Vice-Chair
 Rep. Laurie Monnes Anderson, Vice Chair
 Rep. Vic Backlund
 Rep. Phil Barnhart
 Rep. Betsy L. Close
 Rep. Joanne Verger

STAFF PRESENT: **Cara Filsinger, Administrator**
 Janet Adkins, Administrator
 Sandy Thiele-Cirka, Administrator
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: SB 943 A – Work Session
 HB 3528 – Work Session
 SB 772 B – Work Session
 SB 183 A – 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 139, A 004	Chair Doyle	Calls meeting to order at 2:07 p.m. announces order agenda items will be considered, and opens a work session SB 943 A.
<u>SB 943 A – WORK SESSION</u> 015	Sen. Jason Atkinson	District 2. Testifies in support of SB 943 A. Explains that the bill is the result of a two-month work group. There is a crisis for contractors, especially small contractors. Explains the requirement for liability insurance and states that few insurance companies were willing to write liability insurance for Oregon companies. The premium for one company that had \$1 million in coverage went up to almost \$800,000 a year from \$83,000 a year. A small contractor saw his premium jump from \$38,000 to \$224,000 and his coverage dropped from one-half million, which is required by law, to less than \$250,000. SB 943 A would allow the Construction Contractors Board and the Insurance Division flexibility to try to find a remedy. There will be a need to review this in 2005. Explains that SB 943 A is before the committee today because they feel such an urgency they don't think they can wait until 2005.
	Sen. Atkinson	States there is some interest in doing what Nevada has done in 2005 but it will take a lot of education of legislators. Another idea is to move more to a California model or to a Washington system, as well as self-insurance—whether small to medium size contractors could be pooled to allow this to occur.
077	Rep. Verger	Asks if whatever the groups come up will be accepted.
086	Scott Barrie	Oregon Building Industry Association. States yes, "as long as that alternative provides equal protection." However, there could

		not be a drop in the protection for the consumer.
096	Rep. Verger	Asks if the one-half million is excessive.
101	Barrie	States they are not lowering the level. Most of the contractors have more than the \$500,000 insurance. The first \$100,000 is the most expensive.
104	Sen. Atkinson	Comments that the problem is not the \$100,000 coverage but the number of companies that are willing to write a policy.
114	Rep. Flores Barrie	Asks what Nevada does. Explains that Nevada allows contractors to bid on contracts based on the amount of security they have.
139	Rep. Flores	MOTION: Moves SB 943 A to the floor with a DO PASS recommendation.
143		VOTE: 7-0-0
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
149	Chair Doyle	REP. CLOSE will lead discussion on the floor. Closes the work session on SB 943 A and opens a work session on HB 3528.
<u>HB 3528 – WORK SESSION</u>		
152	Chair Doyle	Advises members they have the HB 3528-5 amendments (EXHIBIT A) .
155	Rep. Mary Gallegos	District 29. Explains the HB 3528-5 amendments (EXHIBIT A) . Explains that a three percent public purpose charge on electric bills. The program is administered by the Public Utility Commission (PUC), which has utilized a nongovernmental agency, the Energy Trust of Oregon. There is no governmental oversight of those funds and their use. The consensus of many people is to eliminate the program entirely. They think they have a good resolution in the HB 3529-5 amendments that helps keep the program in tact and would move the oversight of those funds from the PUC and the Energy Trust over to the Department of Energy (DOE). Explains that the DOE already does many of the renewable and conservation grants and programs and they could administer this in the same way they do the other programs. The fiscal impact would be very minimal because they could use the funds the same as the Energy Trust uses them, and DOE could continue to use the Energy Trust if they choose.
192	Chair Doyle	Notes the new language on page 8 of the HB 3528-5 amendments.
	Rep. Gallegos	Explains the only change is who can use it.
208	Chair Doyle	Asks what DOE would be making determinations on under the new language on pages 8 and 9.
	Rep. Gallegos	Responds that this just allows DOE to use a non-governmental agency.
220	Rep. Backlund	Asks if this bill would be moving the oversight to the DOE, and the public purpose charge would go away January 1, 2008.
228	Rep. Gallegos	Responds that it would move the oversight. The sunset was already in statute.
	Rep. Backlund	Asks if there would be better oversight by DOE than the PUC.
	Rep. Gallegos	States that the Energy Trust is a non-governmental agency. They cannot be required to provide documents. States they have been told they can go to the office and sign non-disclosures if they want to review how the funds are being used, who the contracts

are with, and where they are. States that it is their understanding that many of the contracts are being issued to companies in Washington, D. C., Colorado, and California. These are Oregon tax dollars that are being sent out of state.

250 Rep. Verger Asks if there have been complaints about how the public purposes money is being spent.

262 Rep. Gallegos Responds the problem that many have had is in the way the Energy Trust operates.

250 Rep. Barnhart Notes the presence of PUC Commissioner Beyer and a representative of the Governor's office staff, and ask permission to ask questions.

278 Rep. Close Asks whether a nongovernmental agency could be audited and whether there would be public records if DOE continues to use a non-governmental agency.

Gallegos Responds yes, they would have to write contracts with them and specify how they would do that. Adds that it is not a requirement.

291 Rep. Flores MOTION: Moves to ADOPT HB 3528-5 amendments dated 8/14/03.

296 Rep. Barnhart Comments that he has been informed the Governor's office opposes this bill and there is some additional information that the PUC could provide about the administration of the current system. States he will oppose the bill.

303 Rep. Monnes Anderson Comments she believes the way the system is set up, the PUC's interest is in ratepayers. If there are problems, we should be dealing with PUC rather than making a change.

311 Rep. Verger States she is happy to consider Rep. Gallegos amendment, however, with limited testimony, she will oppose the bill.

315 Rep. Backlund Comments this seems to be a complex issue and is having difficulty having to vote so quickly. States he will vote to get it out of committee and then have time to think about it.

328 VOTE: 4-3-0
AYE: 4 - Backlund, Close, Flores, Doyle
NAY: 3 - Barnhart, Monnes Anderson, Verger
Chair Doyle The motion CARRIES.
REP. GALLEGOS will lead discussion on the floor.

337 Rep. Flores MOTION: Moves HB 3528 to the floor with a DO PASS AS AMENDED recommendation.

342 VOTE: 4-3-0
AYE: 4 - Backlund, Close, Flores, Doyle
NAY: 3 - Barnhart, Monnes Anderson, Verger
Chair Doyle The motion CARRIES.
REP. GALLEGOS will lead discussion on the floor.

350 Chair Doyle Closes the work session on HB 3528 and opens a work session on SB 772 B.

SB 772 B – WORK SESSION

355 Sen. Bruce Starr District 15. Testifies in support of SB 772 B. Comments on SB 996 (2001 Session) and the appointment by the governor of a group to look at how Oregon could create a statute to allow innovative financing for transportation projects. Explains that SB 772 B allows the Oregon Department of Transportation (ODOT), when there is a private company that has an idea about how to

		build and finance a transportation facility using private capital, to invite companies in to talk. Currently, there is no statutory provision that allows ODOT to invite a company to talk. The bill will not allow ODOT to get around land use regulations, environmental regulations, or the public hearing process. They have worked with the Department of Justice and have adopted amendments to take care of their concerns about how Oregon would be protected financially.
467	Sen. B. Starr	Introduces SB 772-B15 conflict amendments (EXHIBIT B).
TAPE 140, A		
017	Rep. Close	Comments that on page 4 of SB 772 B, there is a reference to Chapter 279. Ask if this bypasses those statutes and if agreements are made, if there will be competitive bidding.
028	Jim Whitty	Oregon Department of Transportation. Explains there must be competitive bidding in some manner or form for any project that involves federal highway funds. If only state funds are used, they would anticipate doing the same thing. It is a rarity that they use only state funds.
	Rep. Close	Asks what percentage of projects might use only state funds, or whether only local streets use only state funds.
	Whitty	States that local governments have their own processes. This does not govern what they do. This is only for ODOT state highways.
047	Mike Marsh	Oregon Department of Transportation. States that whether state or federal funds are used, there will be competitive bidding.
	Rep. Close	Comments that SB 772 B says the provisions of Chapter 279 do not apply to concepts or proposals submitted under Section 3 of this Act.
051	Marsh	Explains they want to ensure there is a competitive idea if there is a proposal. They would have to determine what the market is for a project and know what others would pay for it.
055	Rep. Close	Asks if the requirement for ODOT to get the information is in the bill.
	Marsh	Responds affirmatively. Explains they will also do administrative rules to clarify those elements of the bill.
058	Rep. Verger	Comments she believes public-private partnerships are the way to go.
068	Rep. Flores	MOTION: Moves to ADOPT SB 772-B15 amendments dated 8/23/03.
072		VOTE: 7-0-0
	Chair Doyle	Hearing no objection, declares the motion CARRIED.
072	Rep. Flores	MOTION: Moves SB 772 B to the floor with a DO PASS AS AMENDED recommendation.
075	Rep. Monnes Anderson	Thanks Sen. Starr for talking to the members prior to the meeting. States she concurs that public-private partnerships are so important and if it is going to save money, we need to have this option.
081		VOTE: 7-0-0
	Chair Doyle	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
	Chair Doyle	REP. FLORES will lead discussion on the floor.
	Chair Doyle	Closes the work session on SB 772 B and opens a work session on SB 183 A.

SB 183 A – WORK SESSION

089	Chair Doyle	Advises members that they have the SB 183-A5 amendments (EXHIBIT C) . Explains that SB 183 A is a fix to SB 179 that has been signed by the governor.
	Susan Schneider	City of Portland. Testifies in support of SB 183 A (EXHIBIT D) with the SB 183-A5 amendments (EXHIBIT C) .
114	Chair Doyle	Explains that Section 5 of SB 179 B provides that children are present any time on any day, but it is only when children are either occupying or walking within a cross walk, waiting on the curb or shoulder of the highway at the cross walk, or if a crossing guard is present.
121	Schneider	Explains that the cross walk defined in that section is only a crosswalk that is not adjacent to a school.
123	Chair Doyle	Responds that is the point of corrections, but one of the concerns he had in trying to fix SB 179 B was that when someone goes through a school zone 24/7, you could be cited if they were going beyond the speed. States that his understanding of the bill is that is not totally the case. Children still have to be present under those conditions.
	Schneider	Responds that is true of SB 179 B when it goes into law. It also means there are no times when the fine would double on the local streets. The amendment is to deal with that piece. Adds that a judge has the discretion to say that a double fine is inappropriate.
139	Schneider	Explains that Section 1(5) on pages 2 and 3 of the SB 183-A5 amendments doubles the fines for only the offense of speeding. In other cases, doubling fines in school zones applies to all offenses.
145	Rep. Close	Comments she knows of people who were cited at 3:00 a.m. for speeding in a school zone where there were no children. The judge did not have any mercy.
152	Chair Doyle	Explains that SB 179 B has passed into law and if children are present at three in the morning at a crosswalk in a school zone, then it is considered a school zone even though school is not in session. What has not been covered, and what we are trying to fix here with the technical amendment to SB 179 B, is to have it apply only on streets that are not connected to a school. This applies fines on school zone roads that are actually connected to schools.
165	Rep. Close Chair Doyle	Asks if it applies whether children are there or not. States this supports Section 5 of SB 179 B which provides the definition of when children are present. We are not undoing SB 179 B. We are just making sure traffic fines can be doubled on school zone streets that are connected to a school.
183	Rep. Close	Asks which part of the SB 183-A5 amendments does that.
185	Christy Munson	League of Oregon Cities (LOC). Advises that the relative piece is on page 2 at the bottom and on page 3 of the SB 183-A5 amendments.
208	Rep. Flores	MOTION: Moves to ADOPT SB 183-B5 amendments dated 8/14/03.
211	Chair Doyle	Explains that this is a gut and stuff to the original SB 183 and that the provisions in SB 183 have been passed by the Senate in another bill.
217		VOTE: 7-0-0

220	Chair Doyle Rep. Flores	Hearing no objection, declares the motion CARRIED. MOTION: Moves SB 183 A to the floor with a DO PASS AS AMENDED recommendation.
222	Chair Doyle	VOTE: 7-0-0 AYE: In a roll call vote, all members present vote Aye. The motion CARRIES. REP. BARNHART will lead discussion on the floor.
227	Chair Doyle	Closes the work session on SB 183 A and opens a work session on SB 494 A.
<u>SB 494 – WORK SESSION</u>		
232	Rep. Flores	MOTION: Moves SB 494 A to the floor WITHOUT RECOMMENDATION as to passage and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED and BE REFERRED to the Special Committee on Budget.
238	Rep. Monnes Anderson	Comments this bill will prohibit public employers from using public funds to assist, promote, or deter union organizing.
245	Chair Doyle	Explains that the motion would move the bill as it came from the Senate to the Special Committee on Budget.
249	Chair Doyle	VOTE: 6-1-0 AYE: 6 - Backlund, Close, Flores, Monnes Anderson, Verger, Doyle NAY: 1 - Barnhart The motion CARRIES.
267	Chair Doyle	Recesses the meeting at 2:53 p.m. subject to further notice.
267	Chair Doyle	Reconvenes and adjourns the meeting at 5:03 p.m.

EXHIBIT SUMMARY

- A – HB 3528, HB 3528-5 amendments, Rep. Gallegos, 9 pp**
- B – SB 772, SB 772-B15 amendments, Rep. B. Starr, 4 pp**
- C – SB 183, SB 183-A5 amendments, Susan Schneider, 3 pp**
- D – SB 183, prepared statement, Susan Schneider, 1 p**