

SENATE COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES

March 31, 2003
8:00 a.m.

Hearing Room B
Tapes 54 - 57

MEMBERS PRESENT: **Sen. Frank Shields, Chair**
 Sen. Roger Beyer, Vice-Chair
 Sen. Tony Corcoran
 Sen. Bill Fisher

STAFF PRESENT: **Judith Callens, Committee Administrator**
 Patricia Nielsen, Committee Assistant

MEASURE/ISSUES HEARD: **SB 854 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 54, A		
005	Chair Shields	Calls the meeting to order at 8:05 a.m. Opens public hearing on SB 854.
<u>SB 854 – PUBLIC HEARING</u>		
010	Hardy Myers	Oregon State Attorney General (AG), Oregon Department of Justice (DOJ). Testifies as neutral on SB 854, which establishes existing agricultural commodity commissions as state commissions. Submits written testimony (EXHIBIT A). Provides background on law governing free speech. Discusses options for setting up a commodity commission system. Explains findings in the <u>United Foods</u> case.
075	Sheldon Pratt	Oregon Dairy Products Commission. Testifies in favor of SB 854. Discusses process leading up to the suggested legislation.
195	Richard Whitman	Assistant AG, DOJ. Explains legal trends across the nation, and state and federal responses to the <u>United Foods</u> decision. Discusses litigation in progress.
215	Chair Shields	Asks about weakness in Washington State legislation leading up to decision against the Apple Commission.
220	Whitman	Explains how the Apple Commission was not subject to government oversight. Discusses legislative framework created in drafting the legislation. Discusses participation in the process by commission representatives.
255	Shannon O’Fallon	Assistant AG, DOJ. Discusses specific bill language. <ul style="list-style-type: none">• Section 2 adds legislative findings regarding the importance of commodity commissions to the state• Section 4 requires the Department of Agriculture (ODA) to appoint all commission members rather than having them elect their own, and adds a public member to each• Section 14 creates all commodity commissions in statute, rather than by petition
300	Sen. Beyer	Asks whether the Oregon Forest Resource Institute included.

305	O'Fallon	<p>Advises that is in a separate measure. Continues explaining highlights:</p> <ul style="list-style-type: none"> • Section 6 creates duties and authorities of commissions • Section 14, with proposed language to be removed • Section 22 authorizes the ODA director to review and approve/disapprove promotional plans, with proposed amendment to limit the breadth of the authority • Section 25 sets forth qualifications of commissioners and public member, with proposed amendment to change qualification requirements • Section 33 gives commissions tools to collect delinquent assessments • Section 35 increases criminal penalties for non-compliance, with proposed amendment to take out increases
380	O'Fallon	<p>Continues and discusses proposed amendments</p> <ul style="list-style-type: none"> • Add back in the Wheat Commission statute (ORS 578) • Wheat Commission, Alfalfa Commission and Oregon Grains Commission want to have the option to offer a refund of assessments by rule
TAPE 55, A		
015	Barry Bushue	<p>President, Oregon Farm Bureau Federation. Testifies in opposition to SB 874. Submits written testimony (EXHIBIT B). Reiterates value of commissions. Raises concerns about SB 874:</p> <ul style="list-style-type: none"> • Nature of bill and effect on growers • Growers want to retain control of commissions • Suggests legal way for retaining a voice is the refund option Oregon Farm Bureau. Testifies in opposition to SB 854 as introduced. Raises concern over increased government control over commissions. Discusses proposed amendments. Discusses refund programs in operation across the country. Points out litigation is evolving.
070	Jean Underhill Wilkinson	<p>Asks about loss from refund programs.</p> <p>Explains the average is eight percent of commission budgets.</p> <p>Attorney, Oregon Farm Bureau Federation. Discusses overview of litigation involving commodity commission programs. Suggests the farm bureaus should be more involved in drafting potential legislation. Asks for a sunset provision.</p>
130	Sen. Beyer	Asks how long the discussion has been going on.
135	Wilkinson	Discusses timetable since October 2002. Submits written testimony of Larry Price, Alfalfa Commission (EXHIBIT C).
140	Joe Hobson	Asks for legal analysis of different courts.
185	Chair Shields	Offers to return information to the committee.
190	Bushue	Asks about specific disagreement with AG over legal issues.
205	Sen. Beyer	Explains there is very little disagreement. Comments on rumors of what would happen to commissions if proposed legislation does not pass. Suggests providing protection for commissions within the measure.
210	Hobson	
220	Sen. Corcoran	
225	Hobson	
245	Charles Barlow	<p>First Vice President, Oregon Farm Bureau; farmer. Testifies in</p>

		opposition to SB 854. Submits written testimony (EXHIBIT D). Suggests refund programs instead of increasing government control over commissions. Suggests growers will continue to support the commissions even if voluntary.
285	Marie Gadotti	Third Vice President, Oregon Farm Bureau; farmer. Testifies in opposition to SB 854. Submits written testimony (EXHIBIT E). Asks to keep commissions in the hands of growers.
325	Sen. Corcoran	Asks about impact of voluntary assessments on multi-year research grants.
335	Gadotti	Explains that growers budget every year like the commissions. Asserts the growers would prefer a grower-run commission over one run by the government.
345	Sen. Corcoran	Inquires whether voluntary assessment is important enough to sacrifice research projects.
350	Gadotti	Suggests need not sacrifice research to keep commissions under grower control.
360	Bushue	Adds that other states have various refundability rules and take that into account during budgeting.
380	Katy Coba	Director, Oregon Department of Agriculture (ODA). Testifies in support of SB 854. Submits written testimony (EXHIBIT G).
TAPE 54, B		
005	Chuck Craig	Deputy Director, ODA. Addresses comments to the refund programs. Discusses marketing programs of bulk commodities in other areas. Clarifies the bill does not increase pesticide oversight.
065	Sen. Beyer	Comments only the ODA can regulate pesticides, not commissions.
070	Coba	Assures that ODA values relationships with commissions and does not want to take control from growers.
080	Chair Shields	Asks what happens if bill does not pass.
085	Coba	Points out litigation is new and many cases are in progress. Recognizes unpredictability but assures commissions they can continue to operate. Offers to work on language to allow that, and to monitor court cases and legislation during the interim.
100	Chair Shields	Inquires about what happens if commissions cannot operate.
105	Coba	Discusses marketing and competition, investments in research, marketing and promotion.

110	Ken Grieb	President, Oregon Wheat Commission. Testifies in support of amendment to maintain the current wheat statute, ORS 578. Submits written testimony (EXHIBIT H) . Suggests refunding program.
180	Karl Scronce	Vice President, Oregon Wheat Growers League; farmer. Testifies in support of amendment to maintain current wheat statute, ORS 578. Submits written testimony (EXHIBIT I) .
215	John McCulley	Oregon Dairy Products Commission. Testifies in support of SB 854. Submits written testimony (EXHIBIT J) . Points out difference in diversity between Oregon commodities and those in other states. Confirms that growers will continue to control the commissions. Submits written testimony of Ken Bailey (EXHIBIT K) .
280	John Rossner	Oregon Clover Commission; farmer. Testifies in support of SB 854, to allow commissions to continue to operate. Submits written testimony (EXHIBIT L) . Reiterates importance of commission research and marketing services. Supports -2 amendments (EXHIBIT M) .
360	Ralph Fisher	Fine Fescue Commission. Testifies in favor of SB 854. Discusses government oversight and refundability. Asserts that government oversight will not be an increased burden on the commissions. Suggests refundability not be mandatory. Points out there is often federal matching money for commission activities. Explains grower-commissioners are on the front line, and though industry supports them, litigation is costly in time and money.
TAPE 55, B		
005	George Pugh	Farmer, Shedd, Oregon; Commission member. Testifies in support of SB 854 and amendments. Expresses concern over lawsuits naming commissioners.
038	Chair Shields	Asks about differences over refundability issue.
040	Rossner	Answers any farmer needs to belong to general and specific farm organizations. As a commissioner, disagrees with refunds because they cause more problems than they solve.
065	Don Anderson	Sauvie's Island. Supports commissions but also refundability. Recommends less government involvement.
090	Edmond Duyck	Farmer, Washington County. Testifies and raises concerns over bill, but with amendment it is more palatable. Submits written testimony (EXHIBIT N) . Asserts that commissions have not always been responsive to growers.
140	Dan Anderson	Northern Malheur County. Testifies in support of farm bureau position. Explains the farm bureaus discussed the commission issue.
180	Nels Iverson	Potato grower. Testifies in support of SB 854. Opposes refund provision. Submits written testimony (EXHIBIT O) .
280	Sen. Corcoran	Asks about commission research benefiting the growers.
285	Iverson	Describes research on russet and other potato varieties.
300	DeeAnn Amstad	Umatilla County potato grower. Testifies in support of SB 854. Opposes refund provision. Submits written testimony (EXHIBIT P) .
350	Ed Macy	Potato grower; Oregon Potato Commission. Testifies in support of SB 854 with proposed amendments.

TAPE 56, A

005	Sharon Beck	Past President, Oregon Cattlemen's Association, ex officio member Oregon Beef Council. Testifies in opposition to SB 854. Submits written testimony and written testimony of Lee Insko, Mack Birkmaier and Bob Beck (EXHIBITS Q, R, S, T).
100	Sharon Livingston	Treasurer, Oregon Cattlemen's Association; rancher. Testifies in opposition to SB 854 but in favor of SB 674, which repeals petition and referendum statutes pertaining to the Oregon Beef Council. Submits written testimony (EXHIBIT U).
145	Glen Stonebrink	Oregon Cattlemen's Association. Testifies in opposition to SB 854. Submits written testimony (EXHIBIT V). Supports proposed -1 amendment to remove the Beef Council from the other twenty-eight commissions (EXHIBIT W). Explains that SB 674 removes the referendum process. Points out that the Beef Council is under federal law, which covers the free speech issue.
195	Diane Byrne Johnston	Executive Director, Oregon Beef Council. Testifies in support of both SB 854 and SB 674. Submits written testimony (EXHIBIT X). Describes makeup of council. Distinguishes beef industry from other commodity commissions in Oregon. <ul style="list-style-type: none">• USDA statute oversees in addition to ORS 577• Mandatory \$1 per head checkoff (all goes to federal level, and half is returned to Oregon Beef Council)• Refund would be held at the national level, not returned to Oregon
270	Sen. Beyer	Asks whether the council would support SB 854 with the proposed -1 amendments which remove the council from SB 854.
275	Johnston	Advises she would ask the council.
278	Mike Kortge	Oregon Wheat Commission; farmer. Testifies in support of SB 854 and proposed amendments. Submits written testimony (EXHIBIT Y). Opposes refundability for wheat commission.

TAPE 57, A

005	Kurt Johnston	Oregon Fryer Commission; chicken grower. Testifies in favor of SB 854.
025	Lynn Long	Klamath County President, Oregon Wheat Growers League; Klamath Falls grain farmer. Testifies in support of SB 854 with both amendments. Submits written testimony (EXHIBIT Z).
060	Phil Olson	Berry grower. Testifies in opposition to SB 854. Submits written testimony (EXHIBIT AA). Expresses support for an amendment to provide for refundability.
155	Scott Faber	Dairy Farmers Association; dairy farmer. Testifies in support of SB 854. Expresses opposition to refundability.
195	Ralph Duyck	Forest Grove dairy farmer. Testifies in support of SB 854. Asks that the Beef Council not be removed, and that each commission decide its policy.
255	Liz VanLeeuwen	Testifies in opposition to SB 854. Submits written testimony of George VanLeeuwen (EXHIBIT BB). Expresses support for refundability position of farm bureau. Raises concerns over pesticides issue.
380	Sen. Fisher	Asks whether separate voting by all commissions is practical.
390	VanLeeuwen	Asserts it is important. Continues the commissions were spending grower money for DOJ services.
395	Sen. Fisher	Inquires how long would separate voting would take.

400	VanLeeuwen	Suggests taking two years during interim.
TAPE 56, B		
005	Mike Townsend	Testifies in opposition to SB 854. Submits written testimony (EXHIBIT CC). Expresses support for refundability. Discusses changes in strawberry market over the past ten years. Asserts that Commission dollars are spent on things some growers disagree with and growers should choose whether to be members.
065	Tim Butler	Vegetable and mint farmer, Stayton. Testifies in support of SB 854. Urges maintaining the integrity of commissions. Suggests the issue is funding promotion and funding crop research.
085	John Langdon	Harrisburg grass seed farmer. Testifies in support of SB 854. Expresses opposition to refundability.
095	Jerry Marguth	Oregon Mint Commission; Oregon Grass Seed Commission; Junction City farmer. Testifies in supports of SB 854 as amended, but opposes refundability.
125	Joann Hathaway	Corvallis farm and forestry. Testifies in opposition to SB 854. Expresses support for commissions, especially for research. Suggests it is premature to change without knowing how litigation will come out. Supports refund program and a sunset clause.
160	Michael Gibson	Junction City farmer. Testifies in support of SB 854. Opposes refundability.
170	Scott Halliday	Pear farmer, Parkdale. Testifies in support of SB 854. Submits written testimony (EXHIBIT DD). Opposes mandatory refundability.
200	Ron Rivers	Hood River pear farmer. Testifies in support of SB 854. Submits written testimony (EXHIBIT EE).
220	Judson Parsons	Medford pear farmer. Testifies in support of SB 854.
235	Roy Malensky	Blueberry Commission. Testifies in support of SB 854.
270	Tim Radie	Blueberry Commission. Testifies in support of SB 854. Suggests maintaining mandatory assessment.
295	Malensky	Advises he was told that if SB 854 did not pass, commissions would be taken apart: <ul style="list-style-type: none"> • If commissions did not support, they would be dismantled • In case of a lawsuit, the commission would get no legal support from DOJ
320	George Crispin	Oregon Raspberry & Blackberry Commission; CEO, Rainsweet Inc. Co-op. Testifies in opposition to SB 854 as written. Suggests keeping the status quo with refundability if needed.
360	Dana Branson	Administrator, Oregon Sweet Cherry Commission. Testifies in support of SB 854 with current amendments. Explains the commission originally formed because a voluntary program was beginning to fail.
380	Ron Fujii	Chairman, Oregon Strawberry Commission. Testifies in support of SB 854 with amendments. Discusses market trends.
405	Sen. Beyer	Points out everyone supports the commissions. Offers to work with both sides to prepare amendments this week.
TAPE 57, B		
010	Don Moisan	Dairy farmer, Brooks. Testifies in support of SB 854. Opposes mandatory refunds. Wants commissions to continue but expresses concern over fate of Beef Council with its federal connection. Suggests including the Beef Council in SB 854.
075	Norman Coon	Farmer, Hulsey. Testifies in opposition to refundability.

095	Jim Carnes	Farmer, Oregon Seed Trade Association. Testifies in support of SB 854. Opposes refundability. Submits written testimony (EXHIBIT FF) .
159	Don Sturm	Farmer, Troutdale. Testifies in support of SB 854. Opposes refundability amendment.
080	Juliann Schedeen	Testifies in support of SB 854. Opposes refundability. Describes newsletter article sent to growers asking for testimony.
202	Patrick Leavy	Hop Commission, hop producer. Testifies in support of SB 854. Submits written testimony (EXHIBIT GG) . Opposes refundability. Points out that organizations already have the option to be simply associations, and if the assessment is not mandatory, that may be the only option.
245	Brad Pettinger	Crab fisherman, Brookings; Dungeness Crab Commission. Testifies in support of SB 854. Submits written testimony (EXHIBIT HH) . Opposes refundability.
290	Kevin Zielinsky	Oregon Bartlett Pear Commission; pear grower, Salem. Testifies in support of SB 854.
300	Polly Owen	Associated Oregon Hazelnut Industries. Testifies in support of SB 854 without amendments. Submits written testimony (EXHIBIT II) .
320	Joe Easley	Oregon Trawl Commission. Testifies in support of SB 854. Submits written testimony (EXHIBIT JJ) . Opposes refundability.
380	Chair Shields	Advises he will bring the bill back for work session. Urges negotiation and compromise. Closes public hearing on SB 854. Adjourns the committee at 11:50 a.m.

EXHIBIT SUMMARY

A – SB 854, written testimony, Hardy Myers, 6 pp
B – SB 854, written testimony, Barry Bushue, 2 pp
C – SB 854, written testimony, Larry Price, 1 p
D – SB 854, written testimony, Charles Barlow, 1 p
E – SB 854, written testimony, Marie Gadotti, 1 p
F – SB 854, written testimony, Joe Gadotti, 1 p
G – SB 854, written testimony, Katy Coba, 2 pp
H – SB 854, written testimony, Ken Grieb, 2 pp
I – SB 854, written testimony, Karl Scronce, 2 pp
J – SB 854, written testimony, John McCulley, 6 pp
K – SB 854, written testimony, Ken Bailey, 1 p
L – SB 854, written testimony, John Rossner, 1 p
M – SB 854, -2 amendments (3-28-03), staff, 15 pp
N – SB 854, written testimony, Edmund Duyck, 1 p
O – SB 854, written testimony, Nels Iverson, 2 pp

P – SB 854, written testimony, DeeAnn Amstad, 2 pp
Q – SB 854, written testimony, Sharon Beck, 2 pp
R – SB 854, written testimony, Lee Insko, 1 p
S – SB 854, written testimony, Mack Birkmaier, 1 p
T – SB 854, written testimony, Bob Beck, 2 pp
U – SB 854, written testimony, Sharon Livingston, 1 p
V – SB 854, written testimony, Glen Stonebrink, 1 p
W – SB 854, -1 amendments (3-18-03), staff, 7 pp
X – SB 854, written testimony, Dianne Byrne Johnston, 2 pp
Y – SB 854, written testimony, Mike Kortge, 4 pp
Z – SB 854, written testimony, Lynn Long, 1 p
AA – SB 854, written testimony, Phil Olson, 2 pp
BB – SB 854, written testimony, Liz VanLeeuwen, 2 pp
CC – SB 854, written testimony, Mike Townsend, 1 p
DD – SB 854, written testimony, Scott Halliday, 2 pp
EE – SB 854, written testimony, Ron Rivers, 1 p
FF – SB 854, written testimony, Jim Carnes, 3 pp
GG – SB 854, written testimony, Patrick Leavy, 2 pp
HH – SB 854, written testimony, Brad Pettinger, 1 p
II – SB 854, written testimony, Polly Owen, 2 pp
JJ – SB 854, written testimony, Joe Easley, 1 p
KK – SB 854, written testimony, Mike Goe, 1 p
LL – SB 854, written testimony, Scott Martinez, 1 p
MM – SB 854, written testimony, Doug Rowell, 1 p
NN – SB 854, written testimony, Dave Nelson, 5 pp