

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

February 12, 2001
3:30 PM

Hearing Room 50
Tapes 27 – 30

MEMBERS PRESENT: Rep. Rep. Bill Witt, Chair
Rep. Betsy Johnson, Vice-Chair
Rep. Tim Knopp, Vice-Chair
Rep. Alan Bates
Rep. Alan Brown
Rep. Janet Carlson
Rep. Richard Devlin
Rep. Bill Garrard
Rep. Jerry Krummel
Rep. Laurie Monnes-Anderson
Rep. Vicki Walker

STAFF PRESENT: Daniel Clem, Committee Administrator
Renee' Lunsford, Committee Assistant

MEASURE/ISSUES HEARD: HB 2680 Public Hearing
HB 2281 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 27, A		
001	Chair Witt	Calls the committee to order at 3:45 p.m. and opens a public hearing on HB 2680.
<u>HB 2680 PUBLIC HEARING</u>		
003	Dan Clem	Committee Administrator. Reads preliminary staff summary of HB 2680.
020	Mike Dewey	Executive Director, Oregon Cable Telecommunications Association (OCTA). Submits written testimony (EXHIBIT A) and testifies in support of HB 2680.
204	Rep. Walker	Asks whether federal law requires anyone that gets into the franchise business to subscribe to the same standards as OCTA.
222	Dewey	Responds affirmatively.
226	Rep. Walker	Asks Mr. Dewey if he has any reason to believe that utilities would not allocate costs.
233	Dewey	Responds he thinks that they would.
237	Rep. Walker	Asks if any local governments have approached Mr. Dewey regarding a partnership.
243	Dewey	Responds that he is not the company. Notes that Charter Communications in Ashland made a proposal to the City of Ashland regarding a partnership.
273	Rep. Walker	Asks if the playing field would be level if private companies were required to do the same things as municipalities.
280	Dewey	Responds that the company he represents is already doing that.
285	Rep. Devlin	Asks if a governmental entity, like a cooperative library service, would not be covered under the bill because they would be

317	Dewey	providing a service to their directly associated branches. Responds that it would be their members, so it would not be a retail sale.
327	Rep. Devlin	States that cable companies are not allowed to regulate the content of public access channels. Asks if local government would have the same position.
345	Dewey	Responds affirmatively.
351	Rep. Devlin	Asks if a local government operating a cable operation would be making determinations on what the channel line-up would be.
360	Dewey	Responds affirmatively.
364	Rep. Devlin	Asks if that would put local government in the role as a censor.
372	Dewey	Answers yes.
374	Rep. Carlson	Notes that Marion County has an internet service. Asks if an internet service such as this would be subject to the provisions in the bill.
384	Dewey	Responds that it seems they would. Notes that the intent is to go after the retail customer.
401	Rep. Garrard	Asks if a government entity is involved in the telecommunications business and they are offering services below market cost, does that mean that the services must be subsidized by the tax payer.
420	Dewey	Responds it all depends on how the debt is incurred. Explains incentives.
469	Chair Witt	States that Open.org is run by the Salem library. Notes that under this bill they could continue to provide the same service, but they have to account for the costs and they can't charge any service for less than what their direct costs are.
TAPE 28, A		
007	Dewey	Responds that this is true, however there may be some subsidies and they may be pricing this below their costs.
027	Rep. Bates	States the bill is too broad and not defined well enough. Asks how the bill will affect small communities if it passes.
044	Dewey	Responds that the cable companies will provide the service because it makes sense for them economically.
058	Rep. Krummel	Asks if it is okay for local government to loan or give an enterprise tax fund as long as it is accounted for.
075	Dewey	Responds affirmatively. Gives details.
084	Rep. Krummel	Asks why telecommunications companies don't follow the Oregon Revised Statutes in regards to the accounting requirements.
099	Dewey	Explains the requirements.
112	Brant Wolf	Oregon Telecommunications Association. Testifies in favor of HB 2680.
129	Shelly Jensen	Verizon. Testifies in favor of HB 2680. Requests that a municipality be required to have the same level of reporting that Verizon does. States internet service providers are not considered telecommunications service providers, therefore, she thinks the libraries would be exempt.
161	Jeanne Benecke	State Manager, AT&T. Testifies in favor of HB 2680. Gives statistics on what cable services AT&T provides. Says there are many regulations both locally and federally. Notes that HB 2680 imposes strict penalties if standards aren't met.
198	Rep. Walker	Asks if any local companies have offered them a partnership in developing telecommunication service.

206	Wolf	Responds he would not want to comment until he knew the facts.
208	Jensen	States she is not aware of any offers.
210	Benecke	States AT&T is currently working on a partnership with the City of Portland on an I-net.
227	Rep. Walker	Asks if telecommunication services are prepared to make the system updates that are necessary to provide for the products contemplated by the municipalities.
240	Benecke	Responds that many of the franchises have upgrade requirements built into them.
275	Bruce Shaull	Representing Sprint. Submits written testimony (EXHIBIT B) and testifies in favor of HB 2680.
300	Ginny Lang	Qwest. States that Qwest is asked on a fairly routine basis to look into partnerships with various municipalities.
332	Rep. Bates	Voices concerns about getting services into communities and asking for municipalities to have costs up front. Asks if charter companies have offered lower-than-cost pricing.
350	Lang	States that she is not aware of that occurring. Notes that Qwest is not allowed to price services below cost.
389	Rep. Bates	Questions if that is for the entire market or just for a particular area.
422	Dick Wanderscheid	Administrative Services Director, City of Ashland. Submits written testimony (EXHIBIT C) and testifies in opposition to HB 2680.
TAPE 27, B		
001	Wanderscheid	Talks about the process and the procedures of installing the Ashland Fiber Network (AFN).
095	Chair Witt	Asks Mr. Wanderscheid why he thinks there will be a lack of infrastructure for telecommunication and cable services in rural Oregon if this bill passes.
105	Wanderscheid	States there are people that are going to testify later that will give the specifics.
110	Chair Witt	Asks why there were no other bids for services for the City of Ashland.
113	Wanderscheid	Responds that the cable company did not give the city a reason why they didn't supply a bid.
114	Chair Witt	Asks Mr. Wanderscheid when they started providing cable service in Ashland and how many customers they serviced. Asks what percent of residents signed up for service.
117	Wanderscheid	Responds that they began service about a year ago and that 30% of the cable customers signed up for service.
143	Chair Witt	Asks if they have done an accounting of both their direct and indirect costs.
145	Wanderscheid	Responds affirmatively.
152	Chair Witt	Asks if they are in compliance with what this bill would require them to do.
154	Wanderscheid	States they're in compliance with the accounting portion of the bill with the exception of the OMB accounting.
155	Chair Witt	Tells Mr. Wanderscheid it would be helpful to the committee if he would specify what he does not like in the bill.
168	Rep. Devlin	States there is nothing in this bill barring a municipal corporation from offering a service.
205	Wanderscheid	Refers to advalorem property tax and states they do not pay this tax, but if they have to account for that they would have to raise

		their rates for a cost they don't incur.
207	Rep. Devlin	Says the concept is to provide a level playing field and unless you do those things, you won't have a level playing field.
214	Wanderscheid	States the incumbents have other advantages that municipalities don't. Gives examples.
215	Chair Witt	States they cannot do anything about that in this bill. Explains that the committee's concern is that there are a number of taxes and fees that are charged to private providers that government entities don't have to provide.
233	Rep. Garrard	Asks if the Ashland system makes a profit. Asks where they get the money to pay for the cost.
239	Wanderscheid	States that at this time they do not make a profit and it will probably take six years for them to be in the black. Explains that they borrowed money from U.S. Bank for the project.
245	Tom O'Connor	Oregon Municipal Electric Utilities. Submits written testimony (EXHIBIT D) and testifies in opposition to HB 2680.
316	Chair Witt	States that if Cascade Locks subsidizes services with other charges or taxes, private companies won't be able to compete.
359	O'Connor	Responds there has not been any history of any other company wanting to serve the City of Cascade Locks.
360	Chair Witt	Asks Mr. O'Connor if he believes the City of Ashland is currently allocating its costs consistent with the bill requirements.
344	O'Connor	Responds that Ashland is operating its system under Oregon local budget law, the public meeting and open record laws, and generally acceptable accounting principles. States concerns.
372	Debra Wright	Eugene Water and Electric Board (EWEB). Submits written testimony (EXHIBIT E) and testifies in opposition to HB 2680.
454	Chair Witt	States that disclosing revenue and costs is the nature of being a government entity.
488	Wright	Agrees, but states that this is not a level playing field.
510	Rep. Krummel	Asks Mr. O'Connor to define full-cost accounting.
TAPE 28, B		
052	O'Connor	Defines full-cost accounting.
055	Rep. Walker	Asks for clarification that except for the development of the Phase Two plan, EWEB's telecommunication activities will be funded only by revenues from those activities and not with any electric, water, or utility system revenues.
070	Wright	States that is correct.
072	Chair Witt	Asks Ms. Wright if she will compute all of the indirect costs.
075	Wright	Responds that she will. Explains further.
078	Chair Witt	Asks if EWEB is in compliance with what the bill requires.
080	Wright	Responds affirmatively.
085	Rob Bovett	Assistant County Counsel, Lincoln County. Testifies in opposition to HB 2680.
127	Chair Witt	Asks what in the bill would prevent Lincoln County or any other city from doing what they did.
128	Bovett	States that if they get a grant, they're going to have to put the cost back on the community and it doesn't pencil out.
145	Chair Witt	Asks Mr. Bovett where he thinks it's appropriate that governments subsidize services.
161	Bovett	Says it's clearly in the Coast Net example where the services wouldn't be provided.

175	Rep. Johnson	Asks Mr. Bovett if businesses won't locate on the coast if internet prices are higher.
177	Bovett	Responds it is more complicated than that and explains.
185	Rep. Johnson	Explains that she is trying to get a sense of how critical the pricing structure or services is in Lincoln County's recruitment of high-tech industry.
193	Bovett	States it is critical.
210	Rep. Krummel	Asks if libraries could still provide internet service to their customers under this bill.
190	Bovett	Responds that the term "consumer" in the bill is not defined.
203	Rep. Bates	Asks Mr. Bovett if Qwest would have provided services if Coast Net had not done so.
243	Bovett	Responds they would have not.
250	Sharon Scott	Citizen, Salem. Testifies in opposition to HB 2680.
302	Steve McClure	Union County Commissioner, and President, Association of Oregon Counties. Testifies in opposition to HB 2680.
292	Chair Witt	Comments that a subsidy can be made available to either a private or government provider.
298	McClure	States that he would hate to take government out of the picture.
309	Dave Barenberg	League of Oregon Cities. Testifies in opposition to HB 2680.
396	Susan Schneider	City of Portland. Testifies in opposition to HB 2680.
TAPE 29, A		
006	Benjamin Walters	Senior Deputy City Attorney, City of Portland. Submits written testimony (EXHIBIT F) and testifies in opposition to HB 2680.
057	Nancy Jesuale	Director of Communications and Networking, City of Portland. Submits written testimony (EXHIBIT G) and testifies in opposition to HB 2680.
140	Stephen Kafoury	Representing OPTEC. Testifies in opposition to HB 2680.
160	Robin Kern	OPTEC. Testifies in opposition to HB 2680.
180	Jeff Bissonnette	Representing the Citizens' Utility Board of Oregon. Testifies in opposition to HB 2680.
191	Robin Freeman	Oregon Peoples Utility District Association. Submits written testimony (EXHIBIT H) and testifies in opposition to HB 2680.
215	Mark Gregory	Executive Director of Information Technologies, Portland State University. Testifies in opposition to HB 2680.
265	Jim Schepke	State Librarian, Oregon State Library. Submits written testimony (EXHIBIT I) and testifies in opposition to HB 2680.
281	Jodie Fisher	Oregon Library Association. Testifies in opposition to HB 2680. States that if this bill moves forward they would like to see language that would exclude libraries.
284	Rep. Krummel	Asks where in the bill it indicates that libraries would be required to charge.
Written testimony of Thomas Schatz, Citizens Against Government Waste, in favor of HB 2680 submitted by staff for the record (EXHIBIT J).		
295	Chair Witt	Closes the public hearing on HB 2680 and opens a public hearing on HB 2281.
<u>HB 2281 PUBLIC HEARING</u>		
309	Clem	Reads staff preliminary summary of HB 2281.
357	Ed Waters	Legislative Revenue Office. Submits written material (EXHIBIT K) and reviews the revenue analysis of HB 2281.
388	Rep. Brown	Asks if there are any other states that have a sales-only revenue tax.
389	Waters	Responds affirmatively.
401	Rep. Brown	Asks if this gives the State of Oregon a better competitive

403 Waters advantage.
 Responds there is a “first-movers advantage” to states that adopt this structure before other states in their region.

413 Chair Witt Points out that the Oregon Tax Incidence Model (OTIM) is a dynamic revenue analysis that will be available in the next few weeks.

TAPE 30, A

060 Paul Phillips Representing the Smart Growth Coalition. Submits written testimony (**EXHIBIT L**) and testifies in favor of HB 2281.

080 Dennis Peterson Chief Tax Officer, Nike. Submits written testimony (**EXHIBIT M**) and testifies in favor of HB 2281.

095 Chair Witt Reiterates that a company looking to invest in Oregon or Texas would probably choose Texas because the system does not penalize for hiring people and making capital investments.

105 Peterson Continues testimony in favor of HB 2281.

133 Erik Amos Columbia Sportswear. Submits written testimony (**EXHIBIT N**) and testifies in favor of HB 2281.

178 Rep. Monnes-Anderson Asks how this will initially affect the state’s revenue from corporations and how many years of transition would there be.

189 Phillips Responds that last session’s static analysis showed \$139 million.

200 Chair Witt States that they don’t have a dynamic analysis yet. Notes that the bill has a subsequent referral to Revenue.

210 Rep. Bates Asks if that model will show what will happen to tax revenues if the bill is not passed.

220 Phillips Responds that it may not.

243 Rep. Devlin States there are at least five bills in the legislature dealing with this issue. Asks if this is good for the economy in the long-term.

253 Phillips Responds affirmatively.

285 Matt Evan Executive Director, Oregon Tax Research (OTR). Testifies on HB 2281. References studies in other states. States the kinds of new jobs that will be created will be family wage manufacturing jobs.

295 Chair Witt Asks Mr. Evans if he sees this as a positive tool that will create more family wage paying jobs.

301 Evan Responds this is what evidence from other states shows.

331 Curt Copenhagen Director of Public Affairs, Longview Fibre Company. Submits written testimony (**EXHIBIT O**) and testifies in opposition to HB 2281.

383 Steve Vincent Avista Utilities. Submits written testimony (**EXHIBIT P**) and testifies in opposition to HB 2281.

460 Shawn Miller Representing PacifiCorp. Testifies in opposition to HB 2281.

TAPE 29, B

062 Rep. Monnes-Anderson Asks what percentage of the company’s sales come to Oregon. Asks what is their total budget for their industry and what is their total loss.

070 Miller Responds that he will provide this information to the committee.

075 Vincent Responds Oregon represents about 5% of their sales as a company. Notes that they would experience about a 20% increase in tax liability.

080 Copenhagen Responds that about 70% of Longview Fibre’s product is sold to Oregon.

088 Chair Witt States that if this is going to cause a company additional taxes, the percentage of their sales conducted in Oregon is smaller than

093	Rep. Krummel	the percentage of their payroll and capital investment in Oregon.
103	Copenhagen	Asks how is it that the company's tax liability increases. Responds that Longview Fibre Company has a small portion of sales outside the state and less than 100 direct employees, which puts them in situation where they are losing \$500,000 per year.
116	Rep. Knopp	Asks if a combination of single-sales factor and making the state's energy market more attractive would be irresistible to new business.
121	Miller	States that they haven't looked at an analysis of the long-term growth.
132	Rep. Walker	Asks Mr. Copenhagen if there are other timber companies in Oregon who would have a similar impact under this bill.
139	Copenhagen	Responds he is not sure.
144	Craig Hammond	Willamette Industries. Testifies in favor of HB 2281.
Written testimony of Bruce MacMahon, representing Idaho Power, on HB 2281 submitted by staff for the record (EXHIBIT Q).		
177	Chair Witt	Closes the public hearing and opens a work session on HB 2281.
<u>HB 2281 WORK SESSION</u>		
180	Rep. Knopp	MOTION: Moves HB 2281 to the floor with a DO PASS recommendation and BE REFERRED to the committee on School Funding and Tax Fairness/Revenue by prior reference.
183	Rep. Walker	Explains that she will be voting against the motion
187	Rep. Bates	Asks if the bill will be debated in the School Funding and Tax Fairness/Revenue committee.
190	Chair Witt	Responds affirmatively.
220	Rep. Walker	Asks if anyone was privy to the Governor's veto message with regard to SB 1275.
226	Chair Witt	States that he hasn't reviewed it. Notes that any revenue analysis they have at this point is a static analysis.
VOTE: 10-1		
AYE: 10 - Bates, Brown, Carlson, Devlin, Garrard, Johnson, Knopp, Krummel, Monnes Anderson, Witt		
NAY: 1 - Walker V		
264	Chair Witt	The motion CARRIES.
REP. KNOPP will lead discussion on the floor.		
276	Chair Witt	Closes the work session on HB 2281 and adjourns the committee at 6:50 p.m.

Submitted By,

Reviewed By,

Renee' Lunsford,
Committee Assistant

Daniel Clem,
Committee Administrator

EXHIBIT SUMMARY

A – HB 2680, written testimony, Mike Dewey, 8 pp.

B – HB 2680, written testimony, Bruce Shaull, 1 p

C – HB 2680, written testimony, Dick Wanderscheid, 3 pp.

D – HB 2680, written testimony, Tom O’Connor, 3 pp.
E – HB 2680, written testimony, Debra Wright, 2 pp.
F – HB 2680, written testimony, Benjamin Waters, 8 pp.
G – HB 2680, written testimony, Nancy Jesuale, 6 pp.
H – HB 2680, written testimony, Robin Freeman, 2 pp.
I – HB 2680, written testimony, Jim Scheppke, 1 p
J – HB 2680, written testimony, Thomas Schatz, 2 pp.
K – HB 2281, written material, Ed Waters, 8 pp.
L – HB 2281, written testimony, Paul Phillips, 48 pp.
M – HB 2281, written testimony, Dennis Peterson, 3 pp.
N – HB 2281, written testimony, Eric Amos, 2 pp.
O – HB 2281, written testimony, Curt Copenhagen, 1 p
P – HB 2281, written testimony, Steve Vincent, 2 pp.
Q – HB 2281, written testimony of Bruce MacMahon, Staff, 1 p