

HOUSE COMMITTEE ON TRANSPORTATION

April 30, 2001
8:00 A.M.

Hearing Room D
Tapes 105 - 106

MEMBERS PRESENT: Rep. Bruce Starr, Chair
Rep. Alan Brown, Vice-Chair
Rep. Jeff Merkley, Vice-Chair
Rep. Richard Devlin
Rep. Jeff Kropf
Rep. Diane Rosenbaum
Rep. Joanne Verger
Rep. Cliff Zauner

MEMBER EXCUSED: Rep. Donna Nelson

STAFF PRESENT: John Leon, Committee Administrator
Kevin Wells, Committee Assistant

MEASURE/ISSUES HEARD: HB 3593 Public Hearing
HB 2145 Public Hearing and Work Session
HB 3411 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 105, A		
003	Chair Starr	Calls the meeting to order at 8:05 a.m. Opens a public hearing on HB 3593.
<u>HB 3593 PUBLIC HEARING</u>		
006	John Leon	Committee Administrator. Reviews HB 3593 and its -4 amendments (EXHIBIT A & B).
034	Everett Cutter	Oregon Railroad Association. States opposition to HB 3593 as written (EXHIBIT C). Explains concern with the -4 amendments.
087	Larry Lee	Operating Manager, Union Pacific Railroad (UPR). Explains why the issue of trains blocking crossings is not simple.
134	Carolyn Larson	Attorney, UPR. Opposes HB 3593. Discusses the proposed new fines to railroads for blocking crossings. Explains why crossing blockages occur. Outlines potential negative impacts for the industry.
154	Chair Starr	Asks how many crossings are on dead end streets.
155	Larson	Indicates that she does not have that information. Acknowledges that some crossing blockages cause problems for motorists.
166	Chair Starr	Asks if she believes that HB 3593 with the -4 amendments are intended to have the impacts she described
169	Larson	Insists that the impacts will happen. States that the intent is not hostile.
175	Chair Starr	Asks if the measure is a mandate or if the Oregon Department of Transportation (ODOT) will work with railroads on the issue.
181	Larson	Replies that ODOT is likely to work with railroads on this.

187	Chair Starr	Asks how many \$3,000 fines UPR has been assessed recently.
190	Larson	Indicates that they have been assessed approximately 75 of those fines.
192	Chair Starr	Suggests that the fines have not deterred UPR from blocking crossings.
200	Larson	Comments on fines. States that railroads do not always have a choice when they block a crossing. Compares current fines with other states.
221	Chair Starr	Asks if other states have criminal or civil penalties.
234	Larson	Indicates that she does not know.
243	Rep. Verger	Discusses a problem with a short line railroad in her district. Suggests that some companies work harder on this issue than others.
265	Lee	Explains the differences between short line and Class 1 railroads.
280	Rep. Merkley	Asks if railroads were part of the negotiations on removing the uniform clearance distance from the original measure.
290	Cutter	Asserts that railroads were not part of negotiations.
293	Rep. Merkley	Asks if railroads would rather have a uniform 500 feet restriction.
295	Cutter	Replies that the railroads do not want a uniform 500 feet restriction.
310	Rep. Merkley	Asks if railroads see the –4 amendments as a compromise.
313	Cutter	States that the –4 amendments are an improvement though they are not acceptable to the industry.
315	Rep. Merkley	States that 250 feet is not a very long setback distance for trains.
336	Dave Barrows	Burlington Northern Santa Fe Railroad. Opposes HB 3593. States that the –4 amendments are an improvement. Explains opposition.
TAPE 106, A		
001	Chair Starr	Asks Mr. Barrows if he was part of the workgroup that negotiated the –4 amendments.
002	Barrows	Replies that he was not invited to negotiate the amendments.
008	Chair Starr	Proposes an amendment changing “shall” to “may”.
010	Barrows	Agrees that would alleviate some of their concerns.
015	Walt Brickwedel	Oregon Short Line Railroad Association. Opposes HB 3593 (EXHIBIT D) . States that the –4 amendments are an improvement though they still have problems. Discusses the operation of short line railroads and how the measure would affect them.
059	Chair Starr	Asks if the penalties should be changed to a civil rather than criminal.
061	Barrows	States a preference for civil penalties.
066	Brickwedel	Indicates a preference for civil penalties.
069	Rep. Kropf	Asks for an example of how HB 3593 would work.
075	Brickwedel	Illustrates how HB 3593 would affect a particular short line railroad.
107	Rep. Kropf	Asks if the –4 amendments address his concerns.
112	Brickwedel	Agrees that they have addressed most of his problems with HB 3593.
113	Rep. Kropf	Asks if the real problem is that anyone can initiate a hearing.
115	Brickwedel	Agrees that is the problem.
117	Barrows	States that problem crossings are the exception and should be recognized as such in the measure or by ODOT.
128	Chair Starr	Asks if the panel has spoken with the Speaker’s Office.

131	Barrows	Replies that he has discussed the measure with the Speaker's Office.
137	Chair Starr	Asks if the Speaker's Office listened to his concerns.
139	Barrows	Acknowledges that the Speaker did address his concerns.
143	Chair Starr	Asks Mr. Cutter if he discussed the measure with the Speaker's Office.
147	Cutter	States that he did not negotiate with the Speaker.
152	Chair Starr	Asks for clarification if he spoke with the Speaker's Office about his concerns.
155	Cutter	Answers no.
164	Claudia Howells	Manager, Rail Division ODOT. Discusses HB 3593 with the -4 amendments (EXHIBIT E).
203	Chair Starr	Asks Ms. Howells to provide information on the fiscal impact.
210	Howells	Provides the fiscal impact statement. Continues to discuss the measure and its amendments.
240	Howells	Explains the potential problems for ODOT in implementing HB 3593 with the -4 amendments. Notes that the measure creates a new fund earmarked for railroad crossing safety improvements.
275	Chair Starr	Asks Ms. Howells to comment on the legal codes Mr. Barrows referenced.
280	Howells	Discusses the uniform operating practices under which railroads operate. Adds that ODOT is likely to adopt the 250 feet standard and make exceptions where 500 feet is more appropriate.
287	Craig Riley	Manager, Crossing Safety Division of the Rail Division ODOT. Agrees that the 250 feet setback distance is usually appropriate. States that this measure is another tool for ODOT.
295	Rep. Zauner	Asks for more information on a hearing in the fiscal impact.
299	Howells	Explains the hearing referenced in the fiscal impact.
312	Rep. Zauner	Asks if changing how hearings are held can reduce costs.
314	Howells	Replies that hearings have to be held in a manner that is convenient for those who request them. Explains that most of the costs are fixed.
330	Rep. Kropf	Asks how often the \$3,000 fine has been assessed.
332	Howells	Replies that she does not have that information with her.
340	Rep. Kropf	Asks in addition to how often the \$3,000 fine has been assessed, has ODOT had to reassess a penalty for repeat offenses at a location.
350	Howells	Indicates that most of the fines have been assessed at one site. Discusses the problems at that site.
364	Rep. Kropf	Asks if there is only one problematic crossing site.
368	Howells	Replies that there are a half dozen trouble spots.
374	Rep. Kropf	Asks if HB 3593 with the -4 amendment is a mandate.
380	Howells	Agrees that it is not a mandate.
386	Rep. Merkley	Asks if ODOT currently has discretion on initiating hearings if a valid complaint is filed.
391	Howells	Replies that ODOT does not have discretion as when to hold hearings.
394	Rep. Merkley	Asks how HB 3593 changes <i>status quo</i> .
TAPE 105, B 002	Howells	Clarifies her initial response. Explains how the hearing process currently works.
007	Rep. Merkley	Asks how difficult it is for individuals to obtain hearings now.
011	Howells	Indicates that ODOT follows up on all legitimate complaints.

020	Rep. Verger	Asks if the idea for the Grade Crossing Improvement Fund came from ODOT.
024	Howells	States that the idea came out of discussions with the Speaker's Office.
030	Rep. Verger	Asks if railroads were part of that discussion.
032	Howells	Indicates that railroads have been informed of the idea.
036	Rep. Merkley	Asks if individuals can create an endless string of hearings if they are upset with a railroad.
038	Howells	Agrees that is a possibility and concerns ODOT.
042	Chair Starr	Asks if currently law requires a hearing if a legal petition is filed.
048	Howells	Agrees that is true. Notes that there are very few petitions for hearings.
064	Duane Bales	Speaker's Office. States that his office did discuss the -3 amendments with Mr. Cutter and others in the railroad industry.
075	Rep. Merkley	Expresses concern over the expansion of private action to request hearings. Asks if there is a way to mitigate potential abuse of litigation.
087	Bales	Indicates that the issue can be discussed.
089	Chair Starr	Asks if it would be acceptable to change "shall" to "may" in the amendment.
096	Bales	Replies that it is up to the committee's discretion.
104	Chair Starr	Closes the public hearing on HB 3593. Opens the public hearing on HB 2145.

HB 2145 PUBLIC HEARING

114	Leon	Explains HB 2145 and its amendments (EXHIBIT G).
138	Al Lightner	Right of Way Project Administrator, ODOT. Supports HB 2145 (EXHIBIT H). Explains why the measure is needed. Discusses illegal billboards and how ODOT enforces billboard regulation now.
195	Terry Sandblast	President, Oregon Outdoor Advertising Association. Supports HB 2145 as amended (EXHIBIT I). Discusses the measure's provisions.
252	Chair Starr	Asks for clarification on how billboard permits are issued.
260	Lightner	Explains that ODOT does not issue any new permits. Adds that local regulations have to be met in addition to having a permit.
270	Chair Starr	Asks if a permit has to be purchased from an existing permit holder.
280	Lightner	Agrees that permits have to be purchased from someone who has one.
281	Chair Starr	Asks if HB 2145 is aimed at companies that erect billboards without permits even if they meet local zoning requirements.
284	Lightner	Agrees that is the purpose of the measure.
285	Rep. Zauner	Asks if putting someone in jail for a violation would deter others.
287	Lightner	Explains that the Department of Justice (DOJ) has never tried a case against someone who built an illegal billboard.
295	Chair Starr	Asks if ODOT has ever pursued such a case.
296	Lightner	Replies that he has asked DOJ to do so. Adds that DOJ does not believe they can win such a case.
302	Chair Starr	Closes the public hearing on HB 2145. Opens a work session on HB 2145.

HB 2145 WORK SESSION

303 Rep. Devlin

MOTION: Moves to ADOPT HB 2145-1 amendments dated 04/17/01.

VOTE: 7-0

		EXCUSED: 2 - Kropf, Nelson
	Chair Starr	Hearing no objection, declares the motion CARRIED.
310	Rep. Devlin	MOTION: Moves HB 2145 to the floor with a DO PASS AS AMENDED recommendation.
319	Rep. Zauner	Asks how the measure will affect the sign at Volcano State Park.
323	Lightner	Indicates it will not affect that sign.
325		VOTE: 8-0
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 – Nelson
		(A motion is made later in the meeting to allow Rep. Kropf to record an “Aye” vote on the motion.)
	Chair Starr	The motion CARRIES.
		REP. VERGER will lead discussion on the floor.
337	Chair Starr	Closes the work session on HB 2145. Opens a work session on HB 3411.
		<u>HB 3411 WORK SESSION</u>
342	Leon	Explains HB 3411 and the –3 amendments (EXHIBIT J).
361	Rep. Devlin	MOTION: Moves to ADOPT HB 3411-3 amendments dated 04/30/01.
		VOTE: 7-0
		EXCUSED: 2 - Nelson, Zauner
	Chair Starr	Hearing no objection, declares the motion CARRIED.
364	Rep. Devlin	MOTION: Moves HB 3411 to the floor with a DO PASS AS AMENDED recommendation.
370		VOTE: 8-0
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Nelson
	Chair Starr	The motion CARRIES.
		REP. STARR will lead discussion on the floor.
382	Chair Starr	Closes the work session on HB 3411. Re-opens a work session on HB 2145.
		<u>HB 2145 WORK SESSION</u>
385	Rep. Starr	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. KROPF to BE RECORDED as voting AYE on the “MOTION: Moves HB 2145 to the floor with a DO PASS AS AMENDED recommendation .”
		VOTE: 8-0
		EXCUSED: 1 - Nelson
	Chair Starr	Hearing no objection, declares the motion CARRIED.
390	Chair Starr	Closes the work session on HB 2145. Adjourns the meeting at 9:25 a.m.

Submitted By,

Reviewed By,

Kevin Wells,
Committee Assistant

John Leon,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 3593, written testimony, staff, 4 pp.**
- B – HB 3593, LC amendment –4 (4/17/01), 4 pp.**
- C – HB 3593, written testimony, Everett Cutter, 2 pp.**
- D – HB 3593, written testimony, Walter Brickwedel, 2 pp.**
- E – HB 3593, written testimony, Claudia Howells, 1 p.**
- F – HB 2145, written testimony, staff, 1 p.**
- G – HB 2145, LC amendment –1 (4/17/01), staff 4 pp.**
- H – HB 2145, written testimony, Alan Lightner, 2 pp.**
- I – HB 2145, written testimony, Terry Sandblast, 1 p.**
- J – HB 3411, LC amendment –3 (4/30/01), staff, 1 p.**