

**SENATE COMMITTEE ON GENERAL GOVERNMENT AND  
TRANSPORTATION**

February 22, 2001 Hearing Room 343  
3:00 pm Tapes 39 - 40

**MEMBERS PRESENT:** Sen. Gary George, Chair  
Sen. Rick Metsger, Vice-Chair  
Sen. Margaret Carter  
Sen. Bev Clarno

**MEMBER EXCUSED:** Sen. Sen. Ken Messerle

**STAFF PRESENT:** Patrick Balducci, Administrator  
Nancy Masee, Administrative Support

**MEASURE/ISSUES HEARD:**  
SB 480 Public Hearing and Work Session  
SB 347 Public Hearing  
SB 348 Public Hearing and Work Session  
SB 349 Public Hearing and Work Session

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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.

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TAPE/#	Speaker	Comments
<b>TAPE 39,A</b>		
005	Sen. Gary George	Chair. Opens meeting at 3:10 p.m. Opens public hearing on SB 480.
<b>SB 480 PUBLIC HEARING</b>		
010	Patrick Balducci	Committee Administrator. Explains SB 480.
019	Christy Monson	League of Oregon Cities. Supports SB 480. Explains why SB 480 is needed to expedite the 30-day effective period to pass resolutions. Asks committee to pass SB 480 ( <b>EXHIBIT A</b> ).
137	Peter Wells	City of Pendleton attorney. Gives background on SB 480. SB 480 asks that resolutions should be in effect immediately without declaring an emergency ( <b>EXHIBIT B</b> ).
050	Chair George	Asks for any questions. Closes public hearing. Opens work session on SB 480.
<b>SB 480 WORK SESSION</b>		
<b>055</b>	<b>Sen. CARTER</b>	<b>MOTION: Moves SB 480 to the floor with a DO PASS recommendation.</b>
<b>056</b>		<b>VOTE: 4-0</b>
<b>057</b>	<b>Chair George</b>	<b>EXCUSED: 1 – Messerle</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. CARTER will lead discussion on the floor.</b>
058	Chair George	Closes work session. Opens public hearing on SB 348.
<b>SB 348 PUBLIC HEARING</b>		
070	Balducci	Explains SB 348.
075	Joe McNaught	Oregon Department of Justice. Supports SB 348. Adds engineering and architectural “related services” to a specific

085	Sen. Metsger	statute. Explains how SB 348 affects construction. Rules need to be more flexible to include associated services ( <b>EXHIBIT D</b> ). Asks if SB 348 is asking for more authority to write a broader rule.
120	McNaught	Responds that is correct, to use rules to contract with other services.
130	Chair George	Asks if SB 348 allows transfer of dollars of cities for ODOT services.
140	McNaught	Answers this bill would have no impact.
148	Sen. Carter	Asks for an example of opting out.
150	McNaught	Responds model public contract rules have an opt-out system. This bill would allow more uniformity to the rules.
155	Chair George	Asks for questions. Closes public hearing. Opens work session on SB 348.
<b>SB 348 WORK SESSION</b>		
157	Sen. Metsger	<b>MOTION: Moves SB 348 to the floor with a DO PASS recommendation.</b>
158	Sen. George	<b>VOTE: 4-0</b>
159	Chair George	<b>EXCUSED: 1 - Sen. Messerle</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. METSGER will lead discussion on the floor.</b>
160	Chair George	Closes work session. Opens public hearing on SB 349.
<b>SB 349 PUBLIC HEARING</b>		
165	Balducci	Explains SB 349.
204	Joe McNaught	DOJ. Supports SB 349 which was pre-session filed. SB 349 seeks amendment to statute, which requires the attorney general (AG) to review all interstate agreements between public agencies in Oregon and other states ( <b>EXHIBIT E</b> ).
250	McNaught	States the DOJ should review interstate agreements between state agencies but not those of local government.
260	Chair George	Asks for questions. Closes public hearing. Opens work session on SB 349.
<b>SB 349 WORK SESSION</b>		
267	Sen. Metsger	<b>MOTION: Moves SB 349 to the floor with a DO PASS recommendation.</b>
268		<b>VOTE: 4-0</b>
269	Chair George	<b>EXCUSED: 1 - Sen. Messerle</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. CLARNO will lead discussion on the floor.</b>
272	Chair George	Closes work session. Opens public hearing on SB 347.
<b>SB 347 PUBLIC HEARING</b>		
275	Balducci	Explains SB 347.
315	Joe McNaught	DOJ. Explains why SB 347 is needed. Supports SB 347 that was pre-session filed at request of AG. Gives background on the bill. If an agency and contractor are operating under a contract that is not written, at the present time they can ask DOJ to approve it for legal sufficiency. DOJ's concern is that a potential abuse could occur if a state agency entered into oral contracts or poorly written contracts and ask DOJ to amend them. SB 347 specifies that parties must have had a written agreement brought to DOJ. SB 347 does not authorize the AG to evaluate any payments made before the contract was approved by DOJ ( <b>EXHIBIT C</b> ).
463	Sen. Carter	Comments on circularity and contradiction in SB 347. Describes

situations that could occur that would be detrimental to a contractor.

**TAPE 40, A**

050	McNaught	Responds that balancing is needed. Explains situations with agencies and contractors where services are performed and the contract is not approved. If services were performed prematurely a mechanism is needed to ratify the agreements. The concern is that contractors or state agencies may not act to uphold original proposals.
109 110	Chair George McNaught	Asks if all agencies are sufficiently informed about contracts. Answers that this is a constant challenge to improve the quality of public contracting. Explains DOJ offers training to agencies. Explains problems of employee turnover and administrative problems.
141 153	Sen. Carter McNaught	Reiterates contracting with state agencies and the AG's part in it. States that the state agency and contractor have to have in writing a contract in some form. The contract basics have to have been in writing before it goes to DOJ. The AG is concerned that agencies determine work to be done at the beginning of the agreement. SB 347 actually limits the authority of the AG. SB 347 authorizes AG to look at any previous payments.
190 212 217	Sen. Carter Chair George Jessica Harris	Comments that there may be some repercussions to contractors. Asks General Contractors Association to speak. General Contractors Association. Concern is that small contractors will be working with insufficient written documentation and may have to return money when the AG makes it sufficient.
248	Chair George	Asks the AG and Contractors to work on the bill to make it safer for small contractors.
266 294	Sen. Carter Sen. Metsger	Comments that both sides need protection. Refers to previous session when this bill was brought forward. Asks what has happened since then to change the bill.
340	McNaught	Responds there have been few ratifications since then. The problem is that agencies start with a project and it becomes more and more expanded. Emphasizes that DOJ wants agencies to have a good basic agreement to begin with. DOJ does not want to expand amendments after the fact.
396	Sen. Metsger	Asks if the way it is written now, if they do work that is not in the contract, will the small contractor not get their money back.
415	Chair George	Describes a personal contract situation.
<b>TAPE 39, B</b> 015	McNaught	Explains AG rules in the legal sufficiency process. DOJ provides some exemptions from legal sufficiency review where circumstances deem they are not needed. More work is needed to refine this bill.
053	Chair George	Asks that Contractors Association and DOJ work on this bill to make it more acceptable. Asks for input from small contractors. Closes public hearing. Adjourns at 4:10 p.m.

Submitted By,

Reviewed By,

Nancy Masee,  
Committee Assistant

Patrick Balducci,  
Administrator

**EXHIBIT SUMMARY**

**A – SB 480, Written testimony, Christy Monson, 1 p**

**B – SB 480, Written testimony, Peter Wells, 2pp**

**C – SB 347, Written testimony, Joe McNaught, 2 pp**

**D – SB 348, Written testimony, Joe McNaught, 2 pp**

**E – SB 349, Written testimony, Joe McNaught, 1 p**