

SENATE COMMITTEE ON RULES AND REDISTRICTING

February 22, 2001 Hearing Room C
03:00 PM Tapes 23 - 24

MEMBERS PRESENT: Sen. Steve Harper, Chair
Sen. Peter Courtney, Vice-Chair
Sen. Jason Atkinson
Sen. Lee Beyer
Sen. Kate Brown
Sen. John Minnis

MEMBER EXCUSED: Sen. Randy Miller

STAFF PRESENT: Craig Allen, Committee Administrator
Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: Executive Appointment
Director of Transportation
Public Hearing
SB 446
Work Session
Introduction of Committee Legislative Counsel Draft Requests

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 23, A 004	Chair Harper	Calls meeting to order at 3:07 p.m. and announces that every Thursday for the first thirty minutes the committee will hear testimony on redistricting/reapportionment. Announces that no one has signed up to testify on redistricting today. Opens public hearing on executive appointment.

EXECUTIVE APPOINTMENT

DIRECTOR OF TRANSPORTATION - BRUCE A. WARNER (EXHIBIT A)

018	Bill Wyatt	Chief of Staff to Governor John Kitzhaber. Introduces Bruce Warner, appointee to the position of Director of Transportation. Explains that a statutory change last session requires that the Governor, rather than the commission, appoint the Director of Transportation. Acknowledges the presence of Stewart Foster, a member of the Transportation Commission.
	Wyatt	Comments he thinks voters gave government leaders a lesson on transportation finance, and does not hear people talking about raising new revenues for transportation funding, at least in the near term, and the department will have to operate in the context of existing resources and believes Warner is the ideal candidate to do that. He has been a district manager. States that as with any large organization that is dispersed, there is a tension between headquarters and field staff. Mr. Warner comes from the field

		end of the organization and is closer to the public and the projects.
	Wyatt	Also thinks and hopes the members will agree that Warner will continue the good relations that current Director Grace Crunican has had with the legislature. As with any large organization, making a change in the middle of session is probably not a good idea but believes Warner will make a seamless transition.
061 072	Chair Harper Bruce Warner	Reviews employment history of Warner (EXHIBIT A). Reviews "Interest in appointment" (EXHIBIT A, page 5). Comments on having mechanical problems when coming over the mountain from Bend and having an Oregon Department of Transportation (ODOT) worker come to his assistance.
118		Believes his resume shows that he has proven management leadership capabilities in large organizations and has a background that allows him to work with the private sector and to come up with things that work for both the private sector and the public to assure that the system works. States he has worked inside and outside ODOT and that has provided a wide perspective. Is looking to build on things Crunican has done with the legislature and with the employees and state government to move forward and maybe find some new and innovative ways to move transportation forward in Oregon.
124	Sen. Minnis	Asks Warner to expand on his experiences and accomplishments and explain why his experience and training rise to the level of becoming manager of this agency.
	Warner	Comments he was involved in a number of the land use decisions as well as the decisions that allowed much of the high tech center to get started in Hillsboro. Worked with Intel and ultimately with other large firms. When he was with the City of Hillsboro he got involved with transportation funding and found out how federal funding and state priorities are set and everyone needed to work together in the region to make sure transportation improvements came about.
159	Warner	Went from City of Hillsboro to Washington County. Many are aware of what their road system was. He was hired to try to figure out a solution to the road problems. Had an opportunity to work with a dedicated Board of County Commissioners to develop some new and innovative funding sources. Voters approved large property tax base serial levies to solve existing deficiencies in the road system. Worked with the development community, at their request, to put in a traffic impact fee on new growth to make sure it paid its fair share of the needed extra capacity. Also worked with the Oregon Dept. of Transportation and the legislature to raise gas tax revenues for maintenance. They are continuing that work to this day. With ODOT and Washington County he was involved in some of the major transit projects in the region and therefore understands federal funding and is proud to be a part of those projects in the metro region.
185	Sen. Courtney	Asks if he had anything to do with the design of Highway 217 or the Twilliger curves.
	Warner	Responds negatively.

	Sen. Courtney	Asks if Warner is aware that a part of Oregon is outside of the tri-county area.
198	Warner	Responds he thinks the question is whether he understands the needs of rural Oregon. Responds that he is aware. Explains that Washington County has a large rural area that is a farm and forest product producer that relies heavily on the transportation system. In association with the League of Oregon Cities (LOC) and Association of Oregon Counties (AOC) he got to know most of Oregon and is used to travelling and recreating around Oregon. Adds that those people at ODOT who know him knows that he bends over backwards to make sure the funds and projects and resources are spread around the state and usually to the benefit of the rural areas.
200	Sen. Atkinson	Asks Warner what his style is in dispute resolution, and what his view is of the role of the legislator who calls about an issue or concern, and how the agency should handle the call.
	Warner	Responds that he believes if Sen. Atkinson were to talk to someone involved in an access management issue, or a development proposal, or the design of a roadway, Sen. Atkinson would find that he first makes sure everyone involved understands all the facts. Usually tries to find a solution that works for both parties. If the parties cannot reach a resolution, he believes those who are involved would believe that he was fair and honest and they understood the process was straightforward and they understood why they had to say no. The parties may have walked away not liking the decision but were supportive of the process and the way it was handled.
230	Warner	The other question was how would I expect the department to respond to a legislator about a problem. States that he wants the people in the lowest levels of the organization to be able to respond to questions from anyone. Would hope they answer the question in an honest, forthright manner and if they do not know the answer they would get back to the legislator. Would also work to make sure the information is forwarded to the proper place so a response can be given.
266	Sen. Atkinson	Thinks there has been a rub by some legislators who don't get the answer, or don't get the right information and a lot of time is lost.
273	Warner	States that he gets frustrated by wasted effort and time. If my management staff is called, you will get a direct answer quickly. It is not his intent to overload legislators with information. Believes the responses should be honest and direct and if there were a problem, he would want to sit down and figure out how to come to a resolution.
261	Sen. Minnis	Asks if he has been able to assess the department and the attitudes of the workers and managers and its overall health as an organization.
294	Warner	Responds that he does not have a total answer. From dealings with the agency from the outside for the last four years shows they have gone through a tremendous amount of turmoil. Thinks some of it has worn on some of the employees but believes they are the same employees who are dedicated to a high level of service and feel they are on the upswing. Will know more after he has been there.
293	Sen. Minnis	States he is interested in how Warner will influence the

		employees with his management style. Comments on unsatisfactory personal comments by a manager on a street in downtown Portland.
349	Warner	Believes he can best lead by example. Also if Sen. Minnis or anyone else has negative kinds of experiences, he wants to know about them.
372	Sen. Minnis	States it is a managerial issue and their perspective of this legislature and some of the decisions the legislature has made with respect to transportation funding.
377	Sen. Atkinson	States he would echo Sen. Minnis' comments. Comments that his employees have dealt with some employees in middle management in some regions. States the level of trust he has with the agency is very low. The level of respect he had for Crunican was very high and remains so today, but there are some real problems on the ground.
	Sen. Atkinson	Asks what Warner's overall opinion is on how the legislature funds transportation.
398	Warner	States his review of the ODOT budget shows that a large percent, 72 or 74 percent is dedicated to roads. The remainder of the budget is dedicated to the various other modes of transportation. If you look at the road side of the organization, we are trying to keep up with maintenance and preservation of the system and doing some limited modernization and improvements to the system to deal with growth. It is clear the gas tax is not working. The efficiency of cars and the advent of the hybrids are going to require us to get out of the box to fund transportation. We don't have the funds to do what we want to do and what people expect especially in the rapidly growing areas of the state. And money for other modes of transportation is fairly limited. We may need to look at the private sector to come up with some ways to build and provide transportation services in Oregon that have never been tried before. Other states have had private enterprise build roads and charge tolls.
441	Warner	States he does not have the answers but wants to work with the legislature, the private sector, and others to try to find answers because the current source of revenue is flat or declining.
420	Chair Harper	Welcomes comments from legislators on what can be done. Comments he thinks relationships are quite good today. In any big outfit things will go wrong. I recommend you keep what you have and build on it. It is a good team and believes there is a good foundation to work on and if there are problems the legislature will try to fix them.
TAPE 24, A		
008	Chair Harper	States that access management is a huge issue. Asks if Warner has any thoughts on trying to defuse it.
010	Warner	Comments that access management has always been an issue. The legislature did direct the department to make changes in the processes to allow a formal process for appealing decisions on access management. Believes the department has enacted those changes. States he does not know how it is working but believes it has been put in place quite recently. States that access management will always be an issue as long as people want access to roads. The department needs to balance the needs and the desires of the property private owner while protecting the

		capacity and safety of the system. States he was involved in a number of access management issues in Region 1 and was frustrated with some of the issues and rules the department had. Hopes that some of the processes that have been put in place will address a number of the issues.
027	Chair Harper	Comments there is an opinion that ODOT is not interested in building roads but is more interested in bike paths and planting petunias. Asks that Warner be aware of the perception. States he is an advocate of a two-cent gas tax for a bonding package to build roads. Adds that he has heard that the Governor will veto that if it comes forward.
038	Warner	Comments he likes building infrastructure and improving the system.
043	Chair Harper	States Warner has talked about alternative forms of financing, alternative forms of operation, and privatization issues. Adds that a lot of places in the world are much more innovative than Oregon is.
049	Sen. L. Beyer	Asks if Warner has any experience with design-build and if so, what his opinions are of the process.
	Warner	Responds he is a firm believer in the design-build process and has used it for building a number of facilities and it has worked very well. They did a couple of such projects when he was with Washington County. Adds that managed properly, and the right contractor has the desires and interests of the agency and the public in mind, it can be a very, very successful process. It speeds up completion of a project.
064	Sen. L. Beyer Warner	Asks Warner to share a couple of projects he is proud of. Responds he has been pleased with and proud of most of the projects he has been involved with. Many of the transportation and road improvements in Hillsboro bear his professional stamp, such as Cornell Road, Evergreen Road, and some of the 25 th Avenue in Hillsboro. When he was with Washington County they did a number of roads such as 185 th Avenue improvement, a major multi-million dollar project, and Murray Road construction. Thinks the I-84 project of widening the road to Troutdale went very well. Also, some of the Sunset Highway projects are examples he thought worked very well.
074	Richard Burke	Legislative Assistant to Senator Gary George. State he is testifying neutral on the appointment. States he is not a transportation expert and has never been involved with building a road. Comments that their office has been calling people about the appointment and have been getting mixed messages. They have called about 20 people and received mixed message. One positive message was from Greg DeLogretto, General Manager of the Tualatin Valley Water District. DeLongretto had only positive things to say. Also a doctor said Warner was a good guy.
109		Also received negative comments about spinning numbers, not being able to get information and other such issues. They have received a variety of comments from positive to negative regarding the candidate. Comments on meeting in Governor's office with Warner and reports there was some concern on the part of the Governor's office that the negative information be

provided early so Warner would not be sand bagged.
States it is important the information be brought before this committee. Believes it is good for the entire state to be thorough, deliberative.
Without saying he would be or not be a good appointment, asks for few days to gather information and examine his record before the committee makes its decision.

147 Sen. Minnis Comments he gives very little credit to people who make negative comments and refuse to or do not want to be identified. Asks if the people did not want to be identified.
Burke Explains that Senator George had not asked the people if they would come forward. They need to get permission from the people.

158 Sen. Minnis Asks what the chances are of bringing people forward to give testimony that might give a contrary opinion about Mr. Warner.
Burke Believes the chances are excellent and also believes they and Warner will be able to produce people who have positive comments, too. Sen. George wants a fair hearing regarding this appointment.

159 Sen. Minnis Asks if there was something other than "spinning numbers" that was construed to be negative.
Burke Responds that comments have included not being able to get information, spinning numbers to fit conclusions, and not having adequate experience in roads that are not in the metropolitan area.

187 Chair Harper Explains that the committee will proceed with the appointment. Asks that Burke provide him with comments he receives and he will pass them on to Warner, or Burke can give Warner the information. States that the more information Warner has, the better he can fix broken things.

200 Sen. Courtney **MOTION: Moves the APPOINTMENT of Bruce A. Warner to the Director of Transportation to the floor with the recommendation that the appointment BE CONFIRMED.**

202 **VOTE: 6-0**
EXCUSED: 1 - Sen. Miller
Chair Harper Hearing no objection, declares the motion CARRIED.
SEN. HARPER will lead discussion on the floor.

203 Chair Harper Closes the executive appointment and opens a public hearing on SB 446.

SB 446 – PUBLIC HEARING

203 Sen. Peter Courtney District 17. Testifies in support of SB 446 (**EXHIBIT B**). Adds that a bill was also introduced but not passed last session, and that people in the real estate industry admit the laws need to be updated because the people in real estate are going outside the law to deal with the everyday transactions.

333 Jana Jarvis Director, Government Affairs, Oregon Association of Realtors. Explains that their association has worked strongly and proactively in developing SB 446 in conjunction with the real estate commissioner. Introduces Andrea Bushnell, Executive Director, Oregon Association of Realtors and General Counsel, Dave Koch, chairman of the presidential task force and president-

		elect for 2002, and Martha Brooks, a sales associate from John L. Scott and a member of the presidential task force.
326	Dave Koch	President-Elect, Oregon Association of Realtors (OAR). Presents prepared statement in support of SB 446 (EXHIBIT C).
418		Displays form explaining what representation means to the buyer and seller. Comments on "in-company sale" when an agent represents both the buyer and the seller and duties of the agent and broker.
TAPE 23, B		
019	Andrea Bushnell	Executive Vice President, Oregon Association of Realtors. Presents a prepared statement in support of SB 446 (EXHIBIT D). SB 446 would require all current sales associates to take additional education and ultimately become brokers in their own right. Explains levels of licenses.
109	Sen. Minnis Chair Harper	Asks if there is a section-by-section analysis of SB 446. Requests that the witnesses provide the committee a section-by-section analysis of SB 446.
112	Sen. Minnis	Asks why they wish to register business names with the Real Estate Agency as opposed to the Corporation Division of the Secretary of State's office.
122	Bushnell	Defers question to Commissioner Taylor.
124	Martha Brooks	Presents a prepared statement in support of SB 446 (EXHIBIT E).
195	Scott Taylor	Real Estate Commissioner. Testifies that SB 446 has been working for about three and one-half years. Believes the level of regulation is about right, but it is wrongly directed. The statute was rewritten in 1977. It was clear that the statute did not work well because they constantly had to bend interpretations of the laws, take interpretations that really stretched the law in order to keep the regulation from impeding the industry or what the consumer was demanding upon the industry.
232	Taylor	Reviews provision of SB 446 (EXHIBIT F).
235		Gives example of 1999 bill relating to cooperative brokers working outside the state and flexibility in entering into agreements with other states. However, when the Attorney General's office reviewed some of the contracts, they found some conflicts that made it almost impossible to get some of the agreements put together. Those fixes are in SB 446.
249	Taylor	Responds to Sen. Minnis' questions about registering real estate firms. Most brokers have two licenses, one for the organization and one for their person, and a license for any branch office. States that as the commissioner, he has tried to figure out why the agency is licensing buildings and the name of a company because neither one of those has ever violated a statute. So, instead of having the organization licensed, the agency asked that the company be certified by being duly registered with the Corporations Division, and the name be registered with the Real Estate Agency one time for an initial fee. The registration is renewed and they must let the agency know where the branch offices are for a fee of \$10 per office or organization.
263	Sen. Minnis	Asks how the coordination with the Corporation Division will work.
	Taylor	Explains that under current law, before the Real Estate Agency licenses a broker under a DBA, they must verify that the DBA is

properly registered with Corporations. Then they license the DBA with the Real Estate Agency.

306 Taylor Continues presentation of explanation of provisions of SB 446 **(EXHIBIT F)**.

377 Taylor Projects there will be a net zero fiscal impact on the agency. Advises that the amendments are mostly housekeeping and the agency supports them.

391 Sen. Minnis Asks why the forms are not developed by rule rather than put in the statutes.

Taylor States he was involved in the drafting of the forms when he was in the industry. Explains that the "Oregon Seller's Disclosure Form" which is not a part of ORS 696 is in the bill, but some word changes bring it into SB 446. It is in ORS 105. The Agency Disclosure Forms are in statute. Explains that at the time the form was written, the proponents of the bill wanted the forms in statute because they didn't trust the agency to do it right. Under the proposal today, the format of the form and the form and content will be done by rule. Believes they have come a long way in trust between the agency and the industry.

425 Chair Harper Asks if the amendments will cause a fiscal impact.

Taylor Responds negatively.

435 Chair Harper Asks if the bill is written so that will not have to be revisited when technology changes.

Taylor Responds it is theoretically possible to do that today. The bill addresses it and provides the flexibility.

448 Chair Harper Closes the public hearing on SB 446 and opens a work session on introduction of committee Legislative Counsel Draft Requests.

INTRODUCTION OF COMMITTEE LEGISLATIVE COUNSEL DRAFT REQUESTS

462 Craig Allen Administrator. Advises members that the memo from Larry Harvey is a request made on behalf of the Chiropractic Association of Oregon by Senator Derfler's office. Due to a procedural problem in Legislative Counsel, the drafting was not done **(EXHIBIT G)**. Legislative Counsel advises the best way to correct the problem is to request the draft through the Rules Committee.

480 Sen. Atkinson MOTION: Moves TO MAKE A LC DRAFT REQUEST OUTLINED IN THE "LARRY HARVEY MEMO" (EXHIBIT G) BE INTRODUCED AS A SENATE RULES AND REDISTRICTING COMMITTEE LC DRAFT REQUEST.

**484 VOTE: 4-0
EXCUSED: 3 - Brown, Courtney, Miller**

Chair Harper Hearing no objection, declares the motion CARRIED.

488 Chair Harper Adjourns the meeting at 4:33 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Committee Assistant

Craig Allen,
Committee Administrator

EXHIBIT SUMMARY

A - Transportation, Director of, staff and Governor's office, 6 pp

B - SB 446, prepared statement, Sen. Peter Courtney, 1 p

C - SB 446, prepared statement, David Koch, 2 pp

D - SB 446, prepared statement, Andrea Bushnell, 2 pp

E - SB 446, prepared statement, Martha Brooks, 2 pp

F - SB 446, explanation of SB 446, Scott Taylor, 3 pp

G - Legislative Counsel Draft Request, Introduction of Committee, Larry Harvey, 8 pp