

## HOUSE COMMITTEE ON COMMERCE

May 21, 1999 Hearing Room 350

1:00 p.m. Tapes 68 - 70

**MEMBERS PRESENT:** Rep. Jim Hill, Chair

Rep. Ryan Deckert, Vice-Chair

Rep. Al King

Rep. Jerry Krummel

Rep. Bob Montgomery

Rep. Anitra Rasmussen

Rep. Diane Rosenbaum

Rep. Mark Simmons

Rep. Bill Witt

**STAFF PRESENT:** Jason Cody, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2153 ñ Work Session

HB 3602 ñ Public Hearing and Work Session

SB 827-A ñ Public Hearing and Work Session

SB 1085-A ñ 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.

TAPE/#	Speaker	Comments
TAPE 68, A		

004	Chair Hill	Calls meeting to order at 1:06 p.m. and opens the public hearing on HB 3602.
<b><u>HB 3602 ñ PUBLIC HEARING</u></b>		
004	Jason Cody	Administrator. Reviews HB 3602.
034	Ken Bierly	Governor's Natural Resource Office. Testifies in support of HB 3602 ( <b>EXHIBIT A</b> ). Comments that over the last few months there have been significant discussions between the environmental community and the agricultural community to address the issue. The governor is pleased they have made progress but have failed to reach consensus. Major compromises on both sides have been made and only a limited number of issues separate the two sides.
073	Terry Witt	Executive Director, Oregonians for Food and Shelter. Testifies in support of HB 3602 ( <b>EXHIBIT B</b> ) with the HB 3602-4 amendments ( <b>EXHIBIT C</b> ).
100	Witt	Continues presentation of prepared statement ( <b>EXHIBIT B</b> ).
152	Rep. Witt	Asks if Mr. Witt has reviewed the ñ4 ( <b>EXHIBIT C</b> ) and ñ5 amendments.
151	Witt	Responds he has not seen the ñ5 amendments but does have copies of language intended to be in the ñ5 amendments.
157	Rep. Witt	Asks if the ñ4 amendments are something the governor can support and sign.
159	Witt	Responds that the governor will sign a bill with the ñ4 amendments.
162	Rep. Deckert	Asks if the governor would sign a bill with the ñ6 amendments ( <b>EXHIBIT D</b> ).
170	Witt	Responds he has not seen the ñ6 amendments ( <b>EXHIBIT D</b> ).
178	Rep. Deckert	Asks what objections Mr. Witt has to the ñ6 amendments.
178	Witt	Responds he has not seen them but believes the basic difference is the Oregon Pesticide Education Network (OPEN) amendments (HB 3602-5 amendments) would be very specific with regard to specifying the location of application. The ñ4 amendments give examples as a minimum including watershed, zip code, or county but leaves the determination up to the work group to determine based upon the research generated. Believes the OPEN proposal would delete the section in the ñ4 amendments that would establish up to a \$10,000 maximum civil penalty for breach of the confidentiality clause.
		A prepared statement from League of Oregon Cities is hereby made a part of these minutes ( <b>EXHIBIT L</b> ).

144	Rep. Witt	Asks if they have seen the ñ4 ( <b>EXHIBIT C</b> ) and ñ5 amendments (copy not available).
199	Rep. Deckert	Asks what the rationale is for not allowing information to the public but leaving it to the work group.
212	Witt	Responds there are two rationales. One is the comfort level of those who have to report. The second reason is the more data that is put into a format that is turned over to the public, the greater the cost of the program.
240	Rep. Rosenbaum	Comments if the location can be as vague as a county, she is not sure how useful the information might be. Suggest there should be a balance between the information being useful to the public and protecting those reporting.
252	Witt	Comments they are trying to build an efficient system and there are some people who would like to have access to all data generated at the user level. That would be unworkable and totally inefficient. There needs to be a balance point to start the process. They are looking at establishing what purpose they want the data for. Once that is done, the research group would take a look at how best to collect the data, the form and the specificity to achieve the objective. Adds there was a concern about how effective and how responsible the reporting system would be. That can be a concern if some of the data is only accessible by agencies or legitimate research undertakings. The ñ4 amendments provide for an outside audit to ensure the data collection process is being done in a credible manner.
283	Rep. Rosenbaum	States she is concerned about Section 9 on the penalty structure for violating the confidentiality provision. Comments \$10,000 seems to be a heavy fine to levy on individuals.
295	Witt	Responds the question was discussed. The original proposal was a criminal penalty with a \$25,000 fine. The \$10,000 is consistent with similar statutes in Oregon. Adds that a matrix will be developed.
337	Lorna Young	Assistant Director, Oregon Department of Agriculture. Introduces Chris Kirby, Administrator, Pesticides Program. Comments they will answer questions about how the ñ4 amendments would be implemented. They feel the ñ4 amendments provide a solid base for reporting systems and feel confident they can execute the amendments and sees an opportunity within the structure of the proposal for more dialogue among the interested parties about how the program will be developed. The department pledges to operate on an evenhanded, fair and responsible process.
371	Neva Hassanein	Oregon Pesticide Education Network (OPEN). Submits prepared statement and letter sent to Laura Weiss, Oregon Environmental Council, from the Department of Health Services in California ( <b>EXHIBIT E</b> ) and the HB 3602ñ6 amendments ( <b>EXHIBIT D</b> ). Explains that the ñ5 amendments had a typographical error. Paraphrases prepared statement.
<b>TAPE 69, A</b>		

020	Hassanein	Continues presentation of statement ( <b>EXHIBIT E</b> ).
077	Rep. Witt	Asks if the -4 amendments contain policy considerations that improve the law.
084	Hassanein	Responds affirmatively. Adds that OPEN feels there are several problems with the ñ4 amendments and feels the issues raised are unknowns in terms of how they will be implemented by the agency because of the vagueness of the language with respect to location and the silence on public access.
094	Rep. Witt	Asks if the bill with the ñ4 amendments provide a step forward.
102	Hassanein	Responds it provides a positive step forward for pesticides. Whether it will provide a positive step forward with respect to the public's right to know is unclear. Comments on definition of location in the ñ4 amendments.
120	Chair Hill	Advises members that the ñ6 amendments are being copied and the committee will have a chance to review them.
126	Rep. Deckert	Comments he is concerned with the work groups.
132	Laura Weiss	Oregon Environmental Council. Comments it is unclear how the work group process will work.
147	Dr. Phil Leveque	Molalla. Comments on experiences as toxicologist in Oregon, agricultural poisoning cases, and 2-4D poisoning of employees at Bonneville Power Administration.
210	Leveque	Continues presentation.
260	Leveque	Continues presentation.
312	Carroll Johnston	Oregon chapter of Physicians for Social Responsibility. Submits and reads a prepared statement in support of HB 3602 ( <b>EXHIBIT F</b> ).
428	Rep. Deckert	Asks what the public health argument is for site specific reporting.
433	Johnston	Responds one needs to know where the source is coming from.
438	Rep. Deckert	Asks if there is any unanimity among the scientific community on the issue of pesticide reporting or effect on humans and animals..
445	Johnston	Responds there is research data on the impact. Adds that he has not done a survey on the issue of reporting and cannot speak to that.

**TAPE 68, B**

027	Brad Witt	Secretary-Treasurer, Oregon AFL-CIO. Testifies in support of right to know by workers. Supports HB 3602-6 amendments.
057	Maye Thompson	Nurse and mother. Submits and reads a prepared statement in support of HB 3602 and the ñ6 amendments ( <b>EXHIBIT G</b> ).
117	Sen. Susan Castillo	District 20, Eugene. Asks that the committee support the ñ6 amendments. Asks that a comprehensive program be set up to give better information and one that will work for all Oregonians.
139	Chair Hill	Closes the public hearing and opens a work session on HB 3602.
<b><u>HB 3602 ñ WORK SESSION</u></b>		
<b>142</b>	<b>Rep. Montgomery</b>	<b>MOTION: Moves to ADOPT HB 3602-4 amendments dated 05/21/99.</b>
146	Rep. Deckert	Asks if there will be an opportunity to vote on the ñ6 amendments.
147	Chair Hill	Responds probably not.
148	Rep. Rasmussen	Asks if a motion to adopt the ñ6 amendments would override the motion before the committee.
150	Chair Hill	Responds there is a motion and another motion would not be proper at this time.
154	Rep. Rasmussen	Comments she will oppose the ñ4 amendments.
156	Rep. King	Comments he would like to make some changes to both the ñ4 and ñ6 amendments.
159	Rep. Witt	Explains why he will support the ñ4 amendments.
174	Rep. Rosenbaum	Explains why she will not support the ñ4 amendments.
184	Rep. Deckert	Comments he will vote no on the -4 amendments and believes the testimony argued strongly for the ñ6 amendments.
<b>190</b>		<b>VOTE: 5-4-0</b>

		<b>AYE: 5 - Krummel, Montgomery, Simmons, Witt, Hill</b> <b>NAY: 4 - Deckert, King, Rasmussen, Rosenbaum</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>
<b>196</b>	<b>Rep. Montgomery</b>	<b>MOTION: Moves HB 3602 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
199	Rep. Rosenbaum	Asks if it is possible to add the 6 amendments as a minority report as it comes out of Ways and Means.
203	Chair Hill	Comments that he does not believe Ways and Means allows minority reports. Notes that under the bill \$300,000 to \$400,000 would be collected and spent.
214	Rep. Simmons	Comments he believes it is appropriate for the committee to move the bill to Ways and Means. Adds that it is a significant step in pesticide reporting in Oregon.
224	Rep. Witt	Comments he agrees with Rep. Simmons that this is a positive step forward.
230	Rep. Rasmussen	Comments she is appreciative of the Chair's time and energy, but is a little frustrated that they do not have an opportunity to move the 6 amendments forward.
236	Rep. Krummel	Comments testimony seemed to indicate the 4 amendments provide a balanced way to go and the amendments are supported by the governor.
<b>248</b>		<b>VOTE: 5-4-0</b> <b>AYE: 5 - Krummel, Montgomery, Simmons, Witt, Hill</b> <b>NAY: 4 - Deckert, King, Rasmussen, Rosenbaum</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>
274	Chair Hill	Opens A work session on HB 2153.

Committee is waiting for audience to vacate the room.

**HB 2153 ñ WORK SESSION**

352	Chair Hill	Suggests the committee adopt the HB 2153-7 amendments ( <b>EXHIBIT H</b> ). Explains that the ñ7 amendments provide \$17.7 million to dredge the Columbia, \$20 million for building a pipeline from Roseburg to the Coos Bay-North Bend area and authorizes up to \$45 million for waste water treatment. Adds there is an authorization limit for only \$70 million and further negotiations will occur in Ways and Means.
376	Rep. Rasmussen	Comments there has been some concern about dredging of the Columbia and hearings are still going on.
382	Chair Hill	Advises that the strategy in the construction of the amendment is if they are ready to receive the funds, they would get the money. If they are not ready, the bonding ability would go back to the wastewater treatment fund. The amendments authorize \$82 million of projects. The difference between \$32 and \$45 will be the float if the other projects do not require the money to be bonded in this biennium.
398	Chair Hill	Adds that discussions were held with Ways and Means Co-Chairs. The department would have to come back to the legislature anyway to get the authorization if they do not purchase the bonds in this biennium. If the two projects fail, they will have to come back next session. This would allow the dollars to be put into wastewater treatment this biennium. There is a commitment the two projects would be funded in the next biennium.
414	Rep. Montgomery	Asks if the bill should go to Ways and Means.
414	Chair Hill	Advises that the bill currently has subsequent referral to Revenue. The committee needs to recommend rescinding the referral to Revenue and recommend a referral to Ways and Means.
<b>418</b>	<b>Rep. Montgomery</b>	<b>MOTION: Moves to ADOPT HB 2153-7 amendments dated 05/21/99.</b>
423	Rep. King	Asks which part of the amendments applies to waste water treatment.
431	Rep. Krummel	Comments that wastewater treatment is on pages 17 to 21.
441	Chair Hill	Reviews the project costs contained in the ñ7 amendments.

**TAPE 69, B**

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022	Doris Penwell	Economic Development Department (EDD). Comments the infrastructure funding in EDD's budget is for more than wastewater. It is any of the infrastructure programs the department operates. The amendment authorizes \$45 but it limits the department to sell only \$70 million lottery-backed bonds this biennium. Adds that they are trying to do all the projects within the \$70 million cap for the biennium, even though they are authorizing beyond that for each of the projects over time. EDD thinks they can do it easily.
032	Rep. King	Comments he just does not see the provision in the bill.
034	Penwell	Points out that the amendment starts with Section 1 (3) ( <b>EXHIBIT H, page 2</b> ) and talks about the aggregate principal amount of lottery bonds that equals up to \$45 million. That includes all the moneys the department needs to operate all of the infrastructure programs.
039	Chair Hill	Adds that it refers to Section (1)(a) ( <b>EXHIBIT H, page 1</b> ).
05	Rep. Krummel	Comments he has been accused of taking the State Fair Board out of this bill and wants to be on record that he is not the one who ordered the amendments.
063	Rep. Simmons	Comments that although he feels the money to dredge the channel is a good idea, the people who supported the pesticide reporting requirements are the same people who would like to see the dams removed. If the dams are removed, there will be so much silt it will fill the channel back in.
073	Rep. Rasmussen	Comments she did not hear the witnesses on the pesticide legislation say anything about dams.
077	Rep. Montgomery	Moves the previous question.
		<b>VOTE: 8-1-0</b>  <b>AYE: 8 - Deckert, King, Krummel, Montgomery, Rasmussen, Simmons, Witt, Hill</b>  <b>NAY: 1 - Rosenbaum</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>
082	Rep. Deckert	<b>MOTION: Moves to ADOPT HB 2153-5 amendments dated 05/03/99 (EXHIBIT I).</b>
O85	Rep. Deckert	Explains that the amendment would help attract a major league baseball team to Portland without committing the legislature to anything.



088	Rep. King	Asks if this amendment is only seeking the ability to assist in financing a stadium.
092	Rep. Deckert	Responds affirmatively. Adds that it would be his preferred approach to seek the money.
099	Rep. Montgomery	Comments he would like to suggest the city be located east of the Cascades. Adds he will be a no vote on this because government should not be spending money to build fancy stadiums.
109	Rep. Krummel	Comments that the amendment does not add dollars, but it may be a way to attract a team. Believes a lot of people in city and county governments would not entertain the idea of a team coming in if they had to sell the farm to get them.
120	Rep. King	Comments that an athletic team needs to pay their own way, but there is some portion of public purpose involved if a professional team. Would only support assistance up to the degree that there is a bonified public purpose.
137		<b>VOTE: 7-2-0</b>  <b>AYE: 7 - Deckert, King, Krummel, Rasmussen, Rosenbaum, Witt, Hill</b>  <b>NAY: 2 - Montgomery, Simmons</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>
143	<b>Rep. Hill</b>	<b>MOTION: Moves HB 2153 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Revenue BE RESCINDED and BE REFERRED to the committee on Ways and Means.</b>
149		<b>VOTE: 8-1-0</b>  <b>AYE: 8 - Deckert, King, Krummel, Montgomery, Rasmussen, Simmons, Witt, Hill</b>  <b>NAY: 1 - Rosenbaum</b>
	<b>Chair Hill</b>	<b>The motion CARRIES.</b>

158	Chair Hill	Opens a public hearing on SB 827-A.
<b><u>SB 827-A n PUBLIC HEARING</u></b>		
165	Cody	Explains SB 827-A.
169	Larry Harvey	Testifies in support of SB 827-A <b>(EXHIBITJ)</b> .
184	Rep. Rasmussen	Asks why there is a nursery license.
	Harvey	Explains purpose of license.
193	Chair Hill	Closes the public hearing and opens a work session on SB 827-A.
<b><u>SB 827-A n WORK SESSION</u></b>		
204	Rep. Witt	<b>MOTION: Moves SB 827-A to the floor with a DO PASS recommendation.</b>
207		<b>VOTE: 9-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Hill	<b>The motion CARRIES.</b>  <b>REP. WITT will lead discussion on the floor.</b>
214	Chair Hill	Opens a public hearing on SB 1085-A.
<b><u>SB 1085-A n PUBLIC HEARING</u></b>		
216	Cody	Reviews SB 1085-A.
245	Gary Bauer	Oregon Telecommunications Association. Testifies in support of SB 1085-A:
		<ul style="list-style-type: none"> <li>• Issue has been discussion for a number of years.</li> </ul>

		<ul style="list-style-type: none"> <li>• ORS 759.225 subjects a cooperative telephone company to the PUC's jurisdiction for joint rates and through services</li> </ul>
		<ul style="list-style-type: none"> <li>• ORS 759.220 is the regulation statute.</li> </ul>
		<ul style="list-style-type: none"> <li>• A joint rate is not currently defined, but is considered where two or more companies have gone together to provide service and charge a joint rate.</li> </ul>
		<ul style="list-style-type: none"> <li>• Example is the Oregon Customer Access Plan where a number of companies have joined together and charge one rate for access charges, collect the revenue and redistribute it back to the companies based on their costs. The plan is overseen by the PUC and the oversight will continue under SB 1085-A.</li> </ul>
		<ul style="list-style-type: none"> <li>• Through service is an interstate service that involves facilities or equipment of two or more companies, but does not involve a rate element.</li> </ul>
		<ul style="list-style-type: none"> <li>• When the cooperatives asked to be subject to the statute, the intent was to provide a method for the PUC to deal with complaints between companies.</li> </ul>
		<ul style="list-style-type: none"> <li>• With the market place opening up, in some cases the cooperatives are also a competitive telecommunications provider, they are subject to the statutes as a cooperative and not subject to the statutes as a competitive provider.</li> </ul>
		<ul style="list-style-type: none"> <li>• There are disagreements within the industry. Some providers are concerned that the language does not clearly state that a telecommunications carrier can go to the commission and ask that a dispute be resolved. Beaver Creek's attorney believes the statute allows that as drafted. Other attorneys still have concerns.</li> </ul>
		<ul style="list-style-type: none"> <li>• Another area of concern is extended area service (EAS). PUC believes it cannot mandate that a cooperative construct an EAS route. Some attorneys believe it allows customers to go to the PUC and request they be involved.</li> </ul>
		<ul style="list-style-type: none"> <li>• Committee will receive amendments today and it is hoped that they will resolve any issues outstanding.</li> </ul>
291	Rep. Kurt Schrader	House District 23. Testifies in support of SB 1085-A. Companies have tried to work this out. There is a big difference between telephone communications and cooperatives. Reads from ORS 758.015 and .400 to .475 restricting authority of PUC over cooperatives and certificates of authority and ORS 759 on pooling of rates by cooperatives.
375	Rep. Schrader	States the issue is whether Beaver Creek and other independent cooperatives have a right to deal with the rates and services within their own jurisdiction. The answer is yes. If they are pooling their rates and provide joint services and joint rates, they become subject to PUC regulation. Believes the regulatory is slightly overstepping its bounds and looking into the private business of a cooperative

		that has its own rules and regulations per statute and should be left alone.
404	Tom Linstrom	Beaver Creek Telephone Company. Submits statement and testifies in support of SB 1085-A ( <b>EXHIBIT K</b> ). Paraphrases statement.
450	Linstrom	Continues presentation.
<b>TAPE 70, A</b>		
049	Rep. Deckert	Asks if the cooperative passes a rate increase and there is no PUC hearing on the process, what would be the protection to the private carrier that might have a disagreement with the determination of the cooperative.
058	Linstrom	Responds there are two options under ORS 759.220 that allows the carrier to file a complaint with the PUC for the rate. Explains the PUC could order the cooperative to not increase their rate. The cooperative then has a right to appeal the rate in court. Adds that under SB 1085-A, they can file a complaint with the board of the cooperative.
090	Jenny Lang	U. S. West. Comments U S West has a couple of concerns about the complaint process being open to companies like U S West and that the terms and conditions of the access planning is not circumvented by this legislation. Advises they have agreed on amendments to make U S West feel more confident about the process that would be involved if the bill passes. Adds that Tom Linstrom agreed to accept those amendments.
113	Chair Hill	Announces that the bill will be on the agenda for Tuesday.
124	Laura Imeson	AT&T. Comments they agree with U S West. They do have concerns about a third-party oversight with regard to access. They will work to reach an agreement on the amendment.
137	Chair Hill	Closes the public hearing on SB 1085-A and adjourns meeting at 3:02 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

## **EXHIBIT SUMMARY**

**A ñ HB 3602, prepared statement, Ken Bierly, 1 p**

**B ñ HB 3602, prepared statement, Terry Witt, 2 pp**

**C ñ HB 3602, HB 3602-4 amendments, Terry Witt, 30 pp**

**D ñ HB 3602, HB 3602-6 amendments, OPEN**

**E ñ HB 3602, prepared statement, 4 pp**

**F ñ HB 3602, prepared statement, Carroll Johnston, 3 pp**

**G ñ HB 3602, prepared statement, Maye Thompson, 2 pp**

**H ñ HB 2153, HB 2153-7 amendments, Rep. Hill, 7 pp**

**I ñ HB 2153, HB 2153-5 amendments, Rep. Deckert, 5 pp**

**J ñ SB 827, prepared statement, Larry Harvey, 1 p**

**K ñ SB 1085, prepared statement, Tom Linstrom, 55 pp**

**L ñ HB 3602, prepared statement, League of Oregon Cities, 2 pp**