

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON REGULATIONS

March 10, 1999 Hearing Room 350

3:00 p.m. Tapes 14 - 17

MEMBERS PRESENT: Rep. Bill Witt, Chair

Rep. Jim Hill

Rep. Al King

Rep. Anitra Rasmussen

Rep. Mark Simmons

VISITING MEMBER: Rep. Diane Rosenbaum

STAFF PRESENT: Jason Cody, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2579 ñ Public Hearing

SB 218A 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 14, A		
004	Chair Witt	Calls meeting to order at 3:12 p.m. and opens a public hearing on HB 2579.
<u>HB 2579 ñ PUBLIC HEARING</u>		

003	Jason Cody	Administrator. Reviews HB 2579.
018	Rep. Rasmussen	Submits a statement for Bob Jenks, Executive Director, Citizens Utility Board (CUB) and ask that it be made a part of the record (EXHIBIT A) .
020	John Glascock	American Association of Retired Persons (AARP) submits and reads a prepared statement in opposition to HB 2579 (EXHIBIT B) . Adds that in the case of GTE this legislation would upend a decision already agreed to with respect to refund. For U S West, it could amount to \$58 million.
055	Rep. Hill	Asks if their problem would be solved if Oregon were to enact a universal service fund and set a basic telephone rate.
062	Glascock	Responds that universal service is needed.
070	Rep. Hill	Asks if rate of return would be an issue to AARP if universal service were enacted.
070	Glascock	Responds that AARP sees HB 2579 as a separate issue.
113	Chair Witt	Asks if AARP believes the yellow page advertising portion of the business is presently not a competitive business.
114	Glascock	Responds he would say it is not because those who go into yellow page business that are not part of a telephone company usually are not around very long.
120	Chair Witt	Asks if AARP has information on telecommunications companies' revenues from yellow pages and their actual costs to show their rate of return.
123	Glascock	Responds that his understanding is that the revenues are in the millions.
132	Rep. Hill	Asks why the commission would allow them to raise rates.
134	Glascock	Comments he does not think the commission would have control if this bill passes.
152	Rep. Rasmussen	Comments that her understanding of the bill is that when rates are set the overall income stream is considered and at this time the yellow pages are considered a piece of that income stream.
163	Glascock	Agrees with Rep. Rasmussen.
161	Chair Witt	Comments as he understands it, yellow page rates are unregulated.

166	Glascock	States that the yellow pages is an unregulated affiliate, but over time the yellow pages have been an integral part of the telephone service. Adds that ratepayers have contributed to the yellow pages in their rates and are contributing today. Assert it is a very profitable business for the telecom companies, particularly a monopoly company.
168	Rep. King	Asks who is an unregulated affiliate.
177	Glascock	Responds that it is a directory that usually bears the name of a telephone company.
190	Schelly Jensen	Submits and reads statement in support of HB 2579 (EXHIBIT C) .
269	Rep. Hill	Asks if GTE would file a rate case if this bill passes..
272	Jensen	Responds she does not believe that is the plan. Explains which revenues are considered in rate cases.
303	Rep. Rasmussen	Comments that Jenks makes an argument in his statement (EXHIBIT A) that initial start up costs were funded. Questions whether there should be compensation for the startup costs.
319	Jensen	Responds that until today, a portion of the revenues from the yellow pages has been used to keep ratepayer rates low. Believes the ratepayers have been compensated for the startup costs.
318	Rep. Rasmussen	Asks if the white and yellow pages have always been a profit-making business for the industry.
335	Jensen	Responds he cannot say if they were always profitable. They have been profitable in the recent past.
342	Rep. Rasmussen	Asks if GTE knows how many people are active on GTE's internet and how much time their customers use the phone and the internet.
344	Jensen	Responds she does not know how many internet subscribers there are. Offers to try to provide information.
359	Rep. Hill	Asks if the amount of money being received from subsidies of directories is equivalent to \$20 per month.
368	Jensen	Responds for GTE it equates to approximately \$2.00 per access line. It is about \$12.5 million. GTE has about one-half million access lines in Oregon.

381	Rep. Hill	Asks who pays for the yellow pages.
381	Jensen	Replies the advertisers pay for the yellow pages.
385	Rep. Hill	Asks what the competition is for business lines.
389	Jensen	Responds that over 500 providers are certified with the Public Utility Commission (PUC). Believes about 100 are active. Cannot say whether they are active in GTE territory, but there are probably 20 to 25 significant ones.
397	Chair Witt	Asks how many firms are distributing directories in GTE territory.
406	Jensen	Reads list of competitors.
	Discussion	Continues on number and location of competitors.
445	Chair Witt	Asks what percent of total revenues is from yellow page business.
446	Jensen	Responds that she does not have that information but will provide it to the subcommittee.
TAPE 15, A		
020	Roger Hamilton	Commissioner, Public Utility Commission (PUC). Submits review of HB 2579 (EXHIBIT D) , proposed amendments to HB 2579 (EXHIBIT E) and reads a prepared statement in opposition to HB 2579 (EXHIBIT F) .
070	Hamilton	Continues reading statement (EXHIBIT E, page 2) .
110	Hamilton	Reviews amendments being proposed by the PUC (EXHIBIT E) .
131	Rep. Simmons	Asks what the meaning is of "impute" (EXHIBIT D) .
131	Hamilton	Explains they calculate the value to the ratepayers.
164	Rep. King	Asks who owns U S West Yellow Pages.
165	Hamilton	Explains that it is an affiliated subsidiary of U S West Communications.
170	Rep. King	Asks if it is a publicly traded company.

170	Hamilton	Responds it is. Clarifies that U S West, the local phone company, does not own the Yellow Pages, the parent corporation does.
174	Hamilton	Explains the amendments (EXHIBIT E) .
205	Hamilton	Reviews Amendment #3 (EXHIBIT E) .
210	Rep. Hill	Asks if the PUC has a docket open for universal service.
210	Hamilton	Responds they do.
212	Rep. Hill	Asks how long the docket has been open.
212	Hamilton	Responds he believes the phase of the docket that gets down to going from implicit to explicit subsidies has been open for a little over a year. Docket 731 has been open almost six years..
224	Rep. Hill	Asks what the purpose is of the commission adopting the universal service fund.
226	Hamilton	Explains that the purpose of the universal service fund is to guarantee that everyone in Oregon, regardless of their geographic location, has reasonable and affordable rates.
236	Rep. Hill	Asks if \$12.80 is an appropriate amount, and whether it covers the cost of providing basic telephone service. Asks if Oregon could not adopt universal service and update when the federal government adopts it.
239	Hamilton	Responds it covers the costs in some but not all exchanges.
249	Rep. Hill	Comments that the differences are made up in other places. One place is the directories and another is the business lines.
253	Rep. Hill	Asks if it would be in the commission's best interest to complete their work on the docket, institute the universal service fund and provide a roadmap as to how Oregonians are going to have affordable telephone service.
259	Hamilton	Responds it is complicated by two factors. One is the delays that have been requested by, among other parties, telephone companies themselves. Adds that they hope the SEC rulemaking will be completed in July. The federal SEC rules will determine the federal subsidy. Oregon would complement that with state subsidies.

275	Rep. Hill	Asks if Oregon could adopt the universal service fund and adjust it later when the SEC adopts its regulations.
291	Hamilton	Comments there are other parties to the case. The impact of averaging rates, getting rid of implicit subsidies and replacing them with explicit subsidies, the potential rate shocks are considerable and one the commission would want to look at very judiciously. Other parties would want to benefit from the PUC discussion and be a party to it.
310	Rep. Hill	Asks how long the companies should be held to computing a portion of their revenues.
318	Hamilton	Responds he thinks that until such time as there is full competition and more than the very weak competition in local service, the compensation should continue. Adds that their proposed Amendment #2 (EXHIBIT E) would conclude the issue.
331	Rep. Hill	Requests that Commissioner Hamilton provide the subcommittee with a list of steps the commission has taken to move toward full competition.
336	Hamilton	Agrees to provide the information.
340	Rep. Rasmussen	Request that they include indications if there are undue periods of delay and list what they contribute the delays to.
348	Hamilton	Responds they are in court with several of the major phone companies on interconnection disputes. Under the Telecommunications Act, the commission is required to resolve the cases through arbitration. In almost every case, PUC's decisions have been taken to a higher court by the phone company and in some cases the competitive provider.
396	Rep. Hill	Asks if U S West is supporting HB 2579.
399	Hamilton	States he has no knowledge of U S West's position on the bill.
TAPE 16, A		
016	Rep. Simmons	Asks what the basis is for Commissioner Hamilton's statement, "Other business directories rarely survive or are as profitable" (EXHIBIT D).
020	Hamilton	Explains it is based on his own knowledge, name association and observation of staff.
042	Rep. King	Comments that if U S West does a really good job of selling and filing their product line, the profits get built into their rates.

048	Hamilton	Responds if they are deriving \$110 million in revenue and the PUC is only computing \$58 million, there is still plenty of profit.
052	Chair Hill	Comments they also have costs. Adds that the question is how do they make a profit without having the profits held against them.
065	Hamilton	Introduces Tom Riordan.
067	Tom Riordan	Explains that the \$58 million was derived in an objective manner by looking at the competition of what similar type of directory companies were doing and the contractual relationship they had with the telecommunications companies. The percentages that were applied were consistent with the percentages used in the market place. The remaining \$52 million difference included the cost recovery and a profit.
080	Rep. Rasmussen	Asks what the role of a monopoly is and why are we involved in how much money they make in the first place.
086	Hamilton	Responds it is market power. The monopoly provider has complete control over the market without regulation.
102	Rep. Rasmussen	Asks if the PUC also looks at total revenues in other industries they regulate.
108	Hamilton	Responds affirmatively.
136	Rep. Simmons	Suggest that perhaps there should be a limit on how much of the profits can be imputed by the PUC.
135	Chair Witt	Comments that the committee will hear additional comments on HB 2579.
152	Hamilton	Comments the PUC does self-impose a limit, costs plus a reasonable profit. It is not an arbitrary number.
151	Chair	Closes the public hearing on HB 2579 and opens the public hearing on SB 218-A.
<u>SB 218-A n PUBLIC HEARING</u>		
160	Cody	Reviews SB 218-A.
175	Pete Shepherd	Attorney in charge of Financial Fraud and Consumer Protection Section, Oregon Department of Justice. Comments the group is here in support of SB 218-A.

178	James Kruger	Manager, Seller Travel Program, Division of Finance and Corporate Securities. Introduces himself.
180	F. F. Monty Montgomery	Travel agent from Eugene and President, American Society of Travel Agencies. Introduces himself.
180	Don McCurdy	Don McCurdy Travel , Silverton. and Woodburn and past-president of the American Society of Travel Agents, Oregon Chapter. Introduces himself.
192	James Krueger	Manager, Seller of Travel Program, Division of Finance and Corporate Securities, Department of Consumer and Business Services (DCBS). Presents prepared statement, background information, and a section-by-section analysis of SB 218-A, proposed amendments and hand-engrossed SB 218-A. Presents statement in support of SB 218-A (EXHIBIT G) .
258	Kruger	Continues presentation of statement.
300	Kruger	Continues presentation of statement.
345	Kruger	Presents proposed amendment and explains why the amendment is needed (EXHIBIT G, page 4) .
372	Chair Witt	Asks if the proposed amendment was addressed in the Senate.
373	Kruger	Responds that the issue did not arise in the Senate.
376	Pete Shepherd	Department of Justice. Advises the department had between 50 and 200 contacts mostly from consumers with complaints about travel experiences. Most complaints centered on solicitations that were direct mail, telemarketing, offers of travel in connection with free gifts, a scattering of newspaper advertisements and unsolicited FAXes. Complaints are typically about misrepresentation of the final costs of the trip and a misrepresentation of the services.
405	Monty Montgomery	Comments that travel agents are excited about the legislation. It is unique in the United States. It puts the burden of proof on those who want to carry the label of travel agent in Oregon. The legislation has been well received by the 450 travel agents in Oregon.
438	Chair Witt	Asks if there has been any opposition among travel agents.
439	Montgomery	Responds negatively.
446	Chair Witt	Asks if the department supports the proposed amendments.

467	Shepherd	Responds they do not object to the amendment.
476	Montgomery	Adds that the amendment has been the intent of the legislation all the way through. The travel agents have expected it to be a part of the package.
TAPE 17, A		
034	McCurdy	Comments he is enthused about the law. Comments he knows agents are aware of the legislation but they have not paid much attention to it. They want to see how it will affect them. Is not too sure it will be an easy project for them to make a voluntary program work in the industry. It will be the responsibility of the association to make sure it does happen.
060	Rep. King	Comments he understands the need for the association to maintain professional standards. Wonders why it is unique that members need certification. Asks if this is a travel commission with a different name.
071	Kruger	Responds one reason the department wants to oversee what the association is doing is that the department will be making affirmative recommendations to Oregon consumers to use members of those associations.
081	Montgomery	Explains that SB 218-A does not call for registration. Clarifies that the department would be certifying the association, not each member of the association. The department would be looking at the associations to make sure they are doing some kind of peer review and they are policing and disciplining their members when the members violate the by-laws.
116	Rep. King	Comment he is looking for unique reasons why we need to do this for the travel associations and not all other associations.
119	Montgomery	Comments that membership is required in some organizations and the members must participate in their educational programs and other things.
140	Chair Witt	Asks if they are comfortable with the requirement in Section 4 (b) (D).
162	Kruger	Explains that the amendment was introduced by Rep. Walker to try to get at the circumstance where the travel agency her daughter had worked. The agency apparently had several actions filed against them but none was ever disclosed.
181	Chair Witt	Comments the information will be provided to the association for the purposes of approving a firm's inclusion into the association, but it is not information provided to the public.
185	Kruger	Comments it is information that could also go to the attorney general's office and become a matter of public record there.

190	Chair Witt	States he does not want to see anybody in the industry get hurt because complaints have been brought against them that were never borne out.
192	Shepherd	Comments he is not as confident as Mr. Kruger that the language of the bill necessarily means that the disclosure required is only to the association, as opposed to the consumer.
		From the Department of Justice's standpoint, they are concerned about whether they can harness the elements of the industry that want to set themselves apart in their behavior from the rest. The minimum standards for the people who participate as members of a certified association are held to a higher standard than any legal requirement otherwise. Is not aware of any legal requirement to make it unlawful for a business to fail to disclose that it has been the subject of a lawsuit, nor should there be such a requirement.
234	Shepherd	States if the intent of the committee is make clear that the disclosures are only to the association, not necessarily to the consumer, the language would need to be adjusted.
240	Chair Witt	Comments he has concern for legitimate businesses. The fact that an action is filed or someone sues or complains does not mean the business has done anything unethical, improper or illegal.
264	McCurdy	The complaints and actions likely would become a matter of public record.
266	Montgomery	Comments he does not have a problem with the language. It is limited to activities in the prior 10 years.
303	Rep. King	Comments that the bill allows for multiple associations. Asks if it is the intent there would be one primary association that would be the umbrella statewide.
307	Montgomery	Responds he does not know what the intention of others is, but his intention is that there be one entity.
337	Judi A Tichenor	Co-Owner Educational Travel Services, Inc. Submits and highlights portions of prepared statement (EXHIBIT H).
		<ul style="list-style-type: none"> Explains they are also subject to laws in other states.
		<ul style="list-style-type: none"> Would like the \$10,00 bond be the minimum or that it be reciprocal.
TAPE 16, B		
003		<ul style="list-style-type: none"> There should be disclosure, under advertising and description of services, on underage drinking.

035		<ul style="list-style-type: none"> • Would support Oregon schools recommending tour companies and travel agencies with the certification.
059	Mr. Tichenor	Comments that SB 218-A does not just clean up the travel industry as travel agents selling to the general public. It serves to clean up the student travel industry in many ways. Adds he is also concerned about claims being filed against someone. Questions whether all claims would be looked at when someone makes application to become a member of the association.
079	Ms. Tichenor	Comments she was under the impression there would be more than one certifying body because businesses are different.
	Montgomery	Comments he believes the Tiechors would be better off with SB 218-A as it is written. Explains functions of Airline Reporting Corporation.
120	Mr. Tichenor	Comments they are very supportive of SB 218-A.
		A prepared statement submitted by Rep. Vicki Walker is hereby made a part of these minutes (EXHIBIT I) .
128	Chair Witt	Announces SB 218 will be dealt with separately from the other bill and adjourns meeting.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2579, prepared statement by Bob Jenks, Rep. Rasmussen, 3 pp

B ñ HB 2579, prepared statement, John Glascock, 1 p

C ñ HB 2579, prepared statement, Schelly Jensen, 3 pp

D ñ HB 2579, prepared statement, Roger Hamilton, 1 p

E ñ HB 2579, proposed amendments, Roger Hamilton, 1 p

F ñ HB 2579, prepared statement, Roger Hamilton, 2 pp

G ñ SB 218, prepared statement, background information and proposed amendments, James Kruger, 59 pp

H ñ SB 218, prepared statement, Judi and Dennis Tichenor, 2 pp

I ñ SB 218, prepared statement, Rep. Walker, 3 pp