

HOUSE COMMITTEE ON COMMERCE
SUBCOMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

March 31, 1999 Hearing Room 350

1:00 p.m. Tapes 32 - 33

MEMBERS PRESENT: Rep. Jerry Krummel, Chair

Rep. Ryan Deckert

Rep. Bob Montgomery

Rep. Diane Rosenbaum

STAFF PRESENT: Jason Cody, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2004 ñ Work Session

HB 2923 ñ Public Hearing and Work Session

HB 3283 ñ Public Hearing

HB 3457 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 32, A		
004	Chair Krummel	Calls meeting to order at 1:11 p.m. and opens a public hearing on HB 2923.
<u>HB 2923 ñ PUBLIC HEARING</u>		

008	Jason Cody	Administrator. Explains HB 2923 and provides information on status of project in other states.
023	Chair Krummel	Notes that nobody has signed up to testify. Closes the public hearing and opens the work session on HB 2923.
<u>HB 2923 n WORK SESSION</u>		
029	Rep. Montgomery	MOTION: Moves HB 2923 to the full committee with a DO PASS recommendation and be referred to the Committee on Ways and Means.
036		VOTE: 4-0
	Chair Krummel	Hearing no objection, declares the motion CARRIED. REP. MONTGOMERY will lead discussion on the floor.
051	Chair Krummel	Opens the public hearing on HB 3283.
<u>HB 3283 n PUBLIC HEARING</u>		
053	Cody	Administrator. Explains HB 3283 and the HB 3283-1 proposed amendments (EXHIBIT G).
061	Diane Cowan	Oregon People's Utility District Association. Submits and paraphrases a prepared statement (EXHIBIT A).
130	Cowan	Continues presentation of statement (EXHIBIT A).
180	Cowan	Continues presentation of statement (EXHIBIT A).
202	Ben Doty	Telecommunications Manager, Central Lincoln People's Utility District, and member of the Governor's Oregon Telecommunications Forum Council. Explains map of telecommunication network (EXHIBIT B) . Explains that the map represents about 65 miles of fiber around the cities of Newport, Toledo and Depot Bay, a small island around Florence and another around Reedsport. Adds that they interconnected by a digital microwave. Adds that it became clear during construction that approximately ten percent more money bought ninety percent more capacity.

241	Doty	Comments it is clear in their studies that the traditional providers are reluctant to invest in a rural market the demographics do not support the investment. Adds they hope to develop partnerships and where partnerships do not work, they want to provide some system for the benefit of rural Oregon.
250	Doty	Explains fiber connects the 110 miles of the Oregon coast from Pioneer Telephone back to the valley but Central Lincoln has no authority to connect. Another connection could be made through Sprint at North Bend and would create the first actual rural fiber loop in Oregon.
263	Doty	Comments that a few years ago Egghead took their business out of state because they could not get what they needed; it turned out to be a 600-employee business with family wage jobs.
273	Rep. Montgomery	Asks what is considered a family wage job.
274	Doty	Responds that \$11-12 per hour is at the bottom of the family wage scale.
277	Rep. Deckert	Asks why other municipalities would not be asking for this same authority if it were extended once.
286	Cowan	Asks if the belief is the PUDs would have an advantage because they do not pay income taxes. Responds it benefits the people in the community and the PUDs can charge less than an investor-owned utility can charge.
304	Cowan	Adds that the PUDs are the only electric utilities in Oregon that cannot do this.
291	Rep. Deckert	Asks if Ashland has the same authority under existing statute.
313	Cowan	Responds affirmatively.
302	Chair Krummel	Asks if HB 3283 were to pass, whether it would give them the authority through the Pioneer link to connect into the valley to complete the loop.
420	Doty	Responds affirmatively. Comments it will give them the appropriate authority to negotiate the interconnection agreement to make it happen.
336	Doty	Adds this would be a way to bring telecommunications to eastern Oregon and believes the governor's bill is up for one more hearing.
342	Chair Krummel	Asks if Coos Bay is on a different loop or is left out.
344	Doty	Responds they are a PacifiCorp company and are on the other side of the river. Adds that Bonneville Power is building a line and another line also comes

		through the same territory. They could close another loop.
341	Fergus Pilon	General Manager, Columbia River People's Utility District. Submits and reads a prepared statement in support of HB 3283 (EXHIBIT C).
390	Pilon	Continues reading statement (EXHIBIT C).
<u>TAPE 33, A</u>		
017	Rep. Rosenbaum	Asks how rates and quality of service would be determined.
022	Pilon	Explains local boards of directors elected from subdistricts within the district regulate PUDs; the board members are customers of the utility. The boards set the rates and determine the quality of service.
029	Cowan	Adds that if a PUD went so far into telecommunications that they were providing voice, they understand it would come under regulation by the Public Utility Commissioner. The PUDs do not anticipate they would in any way avoid regulation of something that is already regulated.
036	Rep. Deckert	Comments his greatest fear is that we are not fostering competition in rural communities. Asks if better competition will be achieved in 20 years.
049	Pilon	Comments on competition in the electric industry and adds that he does not know if the same thing would happen in telecommunications.
082	Pilon	Adds he sees the key ingredient they can provide as being the infrastructure for broad band local area network or widearea network in their service area. They are not interested in getting in the long haul business. Sees their niche as "the last mile" of service to the home.
127	Chair Krummel	Power of condemnation. Asks if HB 3283 would extend the power of condemnation.
133	Cowan	Responds that she cannot imagine an existing PUD wanting to exercise their power of condemnation over a telecommunication system. They would still have the right but a PUD could not be formed solely for the purpose of providing telecommunications and then condemning.
158	Gary Bauer	Oregon Telecommunications Association. Submits and paraphrases a prepared statement in opposition to HB 3283 (EXHIBIT D).
203	Bauer	Continues presentation of statement (EXHIBIT D).

222	Bauer	Comments that in previous conversations Mr. Dotyís interest has not been to go into a full retail service to the end user. It appears Mr. Pilonís desire is to build a complete network down to the end user. Adds the PUDs could use the tax-exempt bonds or other authorities. Questions if a public entity should step in and duplicate the service when a private entity is willing to serve the community. Adds they are not against opening up the market; the telecommunication market is open to competition.
243	Bauer	Comments that customers may not have the services they want at the point they ask for it. Companies are investing millions in technology and infrastructure in rural communities. Adds that there is not always someone there to order service.
254	Bauer	Asserts that the HB 3283-1 amendments (EXHIBIT G) only apply to Newport. Adds that as new telecommunication providers go into business today in Oregon, they are certified as a telecommunications provider, not as a telecommunications utility. Adds that only telecommunications utilities are subject to PUC rate regulation.
289	Bauer	States they would like the opportunity to discuss their concerns with the PUD Association.
291	Rep. Montgomery	Notes that Section 12 of the bill has been eliminated by the HB 3283-1 amendments. Suggests that may take care of some of Mr. Bauerís concerns.
297	Bauer	Responds he believes they have only taken out the words "economic development"; they still have a Section 12 which says they will provide telecommunication infrastructure services and advanced telecommunications capabilities.
297	Chair	Closes the public hearing on HB 3283 and announces the public hearing will resume later in the meeting.
309	Chair Krummel	Opens a work session on HB 2004.
<u>HB 2004 ñ WORK SESSION</u>		
323	Jason Cody	Administrator. Advises he recently received the HB 2004-1 amendments (EXHIBIT F) and that Mr. Matthews from the Speakerís office will speak about the amendments.
332	Harvey Matthews	Education Policy Advisor to Speaker Lynn Snodgrass. Introduces Laurie Dahl, KOIN TV6 and explains that Ms. Dahl has set up a hotline in her current capacity with KOIN
336	Laurie Dahl	Parent-Teacher Hotline Coordinator, KOIN TV. Submits information on the KOIN TV Parent-Teacher Hotline (PTHL) in the Portland area. Explains how the hotline works (EXHIBIT E).

439	Rep. Montgomery	Asks why we need a law if this is already happening.
444	Dahl	Explains the hotline is only offered in the Portland Metro area and she is hearing there needs to be an additional means of communication between parents, students and their schools. This would be one easy way for schools to get information out to parents and students.
461	Rep. Montgomery	Comments there may be school districts that do not have dial phones. Asks how the program would work.
TAPE 32, B		
035	Dahl	Responds it may be that the number would be a 1-800 number and a partnership with a telephone company may be possible.
038	Rep. Montgomery	Comments that money will be an issue and asks who will pay for it.
036	Dahl	Responds there will be startup costs involved in creating a phone system. The cost for maintaining KOIN-TV's own line in the Portland area is between \$18,000 and \$24,000 a year. Having Burgerville as an advertiser covers part of KOIN's costs. Adds that options for funding have been discussed. One is that the state would provide the funding. Another would be to have a telephone company involved.
058	Rep. Montgomery	Comments that a caring parent will call in. The parent that does not care is not going to call. Believes it is a good idea for the big city. Adds that he will move the bill to the full committee but will not vote to pass the bill out of full committee.
066	Rep. Montgomery	MOTION: Moves to ADOPT HB 2004-1 amendments dated 03/31/99 (EXHIBIT F).
070	Rep. Deckert	Comments the language says "may" and a school district would not have to have the hotline.
077	Rep. Montgomery	Comments that a school district may do this now without being told they may do it.
078	Matthews	Responds the decision would be up to the school districts; the legislation is designed to provide an opportunity for them to use technology in a way that may not be available to the rural areas. Knows many parents who have students who do not work consistently on their homework that would use this. Believes there is a need for the hotline even in the rural areas. Comments Schelly Jensen of GTE has offered to give her advice.
093	Schelly Jensen	GTE. Responds she has not seen the amendments and cannot speak to them. GTE believes the hotline is a good idea if the schools choose to do it and

		participation is voluntary for companies to get a tax credit.
116	Chair Krummel	Comments the bill only authorizes the school districts or Education Service Districts (ESD) to do this if they desire. The Intent is to provide incentives for companies to help.
102	Rep. Montgomery	Asks if the schools have the authority to do this now.
106	Matthews	Responds the schools do have the authority to do it now. It is currently cost prohibitive. The tax credit is an incentive to encourage partnerships between businesses and school districts to make this available.
124	Rep. Montgomery	Asks if businesses can take a tax write off if they give something to schools.
129	Jensen	Responds she is guessing, but believes that is the case.
132	Rep. Deckert	Agrees with points made by Rep. Montgomery that school districts can currently set up a hotline.
145	Rep. Rosenbaum	Comments it is her understanding all references to the school funding formula has been removed from the bill and the bill would have no effect on school funding.
150	Matthew	Explains that all changes to the school formula are taken out and replaced by stronger language to have it implemented by the teachers if a school district chooses to have it.
160		VOTE: 4-0
	Chair Krummel	Hearing no objection, declares the motion CARRIED.
163	Rep. Montgomery	MOTION: Moves HB 2004 AS AMENDED to the full committee WITHOUT RECOMEMNDATION.
166		VOTE: 4-0
	Chair Krummel	Hearing no objection, declares the motion CARRIED.

		REP. KRUMMEL will lead discussion on the floor.
170	Chair Krummel	Reopens the public hearing on HB 3283.
<u>HB 3283 n PUBLIC HEARING</u>		
175	Mike Dewey	Oregon Cable Telecommunications Association. Comments they are very concerned about PUDs and eminent domain. Cable companies are making large investments in infrastructure in rural areas. The "last mile" is very important. They are seeing a lot of consolidation in the industry. Adds that if eminent domain is allowed to remain under this legislation, they are not concerned about the competition as long as it is fair. They are concerned about the cross subsidies from the power side, i.e. trucks paid for by the ratepayer of the electric utility cross subsidizing billing services and personnel. They are also concerned about the City of Ashland being in the cable business.
208	Dewey	Takes exception to Mr. Pilonis testimony regarding the AT&T/TCI situation. AT&T/TCI are saying they should not be forced by government to have to provide access to the providers because they have made the investment. They have less than one percent of the business and yet people are coming in saying government needs to force AT&T and TCI to provide the network. Suggests it cannot be required because of the Telecom Act. Adds that one of the reasons AT&T and TCI merged is to provide an array of telecommunication services in competition with local exchange companies and others across the United States. With the power of eminent domain it could be possible that a PUD could use the authority.
230	Laurie Imeson	AT&T. Comments she wants to correct Mr. Pilonis testimony about the AT&T/TCI merger. They have not merged with Time Warner. There is a marketing agreement on the national level and they have swapped some property with Paragon in Ohio. The merger with TCI is going to create competition in data telecommunication services including broad band services in data. AT&T is spending millions of dollars to upgrade the network and there will be benefits to rural communities. Shares the concerns expressed by Mr. Bauer and Dewey about eminent domain power. AT&T opposes the HB 3283-1 amendments (EXHIBIT G) . Adds that if it is such a good idea, they do not see why an exception for Newport would be carved out.
262	Chair Krummel	Asks if the population base is what defines Newport.
267	Imeson	Responds that it is her understanding the only community that fits the description is Newport.
264	Chair Krummel	Asks if AT&T had input into the amendments.
276	Imeson	Responds they had a meeting with the PUDs and she expressed to the PUDs her concern that this was not good public policy.

283	Chair Krummel	Asks if their concern would be eased or raised if the exception for the community were removed would there not be a need for the other two subsections if subsection (3) were removed.
284	Imeson	Responds she thinks that is the guts of the amendment.
297	Rep. Montgomery	Asks if there is a middle ground.
300	Imeson	Responds they initially talked with the PUDs about the idea of limiting this to wholesale. The answer was they were not interested in retail, but now they are hearing the PUDs are interested in retail services. Suggests there be further discussion. Adds that there is a situation Lincoln PUD wants to try to resolve because they don't feel they are going to get another party to serve those needs.
314	Rep. Montgomery	Comments there is a need for economic development out in the country. Asks if the groups can have discussions and report back to the committee.
319	Chair Krummel	Asks if Rep. Montgomery would be interested in working the groups.
325	Rep. Deckert	Comments that if eminent domain is the chief concern, it seems there might be language that could be crafted to deal with eminent domain.
332	Dewey	Comments he has not been involved in the discussions before and will be happy to see if they can work something out to narrow the bill. Eminent domain is a huge concern. The cross subsidy situation is substantial.
349	Rep. Montgomery	Comments he has his biases and suggests the groups can have the discussions and come back to the committee.
357	Steve Vincent	Vista Corp. Comments their company has a registered competitive local exchange carrier in Oregon. Does not know where all their subsidiaries' strategies are in Oregon, but they have identified rural Oregon as a place to offer competitive downtown service. Another part of their company offers fiber. In the rural parts of Washington and Idaho, they have placed fiber for educational and medical institutions. Is not testifying for or against the bill, but the question is if the subsidiaries of Vista come into Oregon and offer these services, they will be competitively disadvantaged and may no longer be able to offer a competitive rate. Suggests it gets into the philosophical debate whether government should put private business out of business because of the tax advantage.
382	Chair Krummel	Asks that public utility districts get together with Mr. Bauer and others on the private side and see if they can find a middle ground to ease the concern and still allow development in the rural areas of the state. Advises the bill will be rescheduled in two weeks.
401	Chair Krummel	Closes the public hearing on HB 3283 and opens the public hearing on HB 3457.

TAPE 33, B**HB 3457 n PUBLIC HEARING**

002	Cody	Administrator. Explains provisions of HB 3457.
030	Ted Hughes	Ted Hughes & Associates. Explains HB 3457 is a result of the plight of businesses in Eugene. Explains that the initiative process was used to create a change in the Eugene City Charter dealing with hazardous materials/community right-to-know information. The change created a law in the City of Eugene that no business can comply with. They can be fined \$25,000 a day. The businesses must report on April 1 on all chemical and hazardous materials they have over 20 ounces, the flow of the product in manufacturing, the end product and where the end product is sent. Adds that the firms have to deal with the law they cannot comply with and compete with all the national firms making the same products. Believes AOI, the electronics association and a group of businesses will be asking the legislature to deal with the community right-to-know hazardous material law in another committee.
100	Rep. Kitty Piercy	Questions why the legislature is wasting money putting this bill through. Feels it is an April fools bill. Eugene is a proud community and is much like the vision of the founding fathers on the East Coast. Eugene is the kind of community businesses want to go to. Can't have it both ways must allow public to participate and deal with the consequences of that participation.
137	Chair Krummel	Stands meeting at recess for 39 seconds.
153	Rep. Jim Welsh	District 43. Comments a corner of his district is southwest Eugene. This bill is in response to a 1996 Eugene toxic right-to-know charter amendment. There was another bill last session to preempt Eugene's toxic right to know ballot measure initiative. The same bill is back to lessen the impact on the 20-40 businesses and industries in Eugene that are affected by the bill. After the bill came out of Legislative Counsel, responses came in on both sides. A comment from a Eugene business owner said she was very serious about HB 3457.
197	Rep. Welsh	The committee hearing HB 3421 has a list of those most affected by the charter amendment saying it will adversely impact their business in Eugene. Some have stated they will not reinvest in their business in Eugene and some are seriously considering moving out of Eugene..
		The citizens did not realize that statewide standards already established in Oregon; those standards lead the nation. The loss of 20 or more businesses would mean a loss of millions of dollars of investment and revenue impact on the City of Eugene. Adds that he believes if HB 3421 is successful the businesses will stay in Eugene and that is what he wants to happen.
228	Rep. Montgomery	Comments he thinks if Eugene had the unemployment rates that Eastern Oregon does they would respect the businesses a little more.

254	Rep. Welsh	Comments there is a group in Eugene that does not want Hyundai there and has done everything to get them out of town.
265	Rep. Rosenbaum	Comments there seems to be a trend developing this session. It is the autonomy of local communities. Adds it seems that at some point state government has to allow some self-determination for communities to go down the paths they choose and bear the consequences. Asks if there are times when it is appropriate to let local communities have their way.
287	Rep. Welsh	Responds he does. Adds there are times when statewide standards are needed if are going to allow a good cross section growth of business and industry in the state.
314	Rep. Deckert	Comments he believes businesses are free to come and go as they please.
324	Rep. Welsh	Comments he considers important not only the businesses but also all those involved in indirect and direct businesses and the local governments and their support.
358	Chair Krummel	Closes the public hearing on HB 3457and adjourns meeting at 2:55 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3283, prepared statement, Diane Cowan, 2 pp

B ñ HB 3283, map of networks, Ben Doty, 6 pp

C ñ HB 3283, prepared statement, Fergus Pilon, 10 pp

D ñ HB 3283, prepared statement, Gary Bauer, 2 pp

E ñ HB 2004, hotline information, Laurie Dahl, 30 pp

F ñ HB 2004, HB 2004-1 amendments, Harvey Matthews, 2 pp

G ñ HB 3283, HB 3283-1 amendments, Diane Cowan, 2 pp