

**HOUSE COMMITTEE ON WATER AND ENVIRONMENT**

**June 17, 1999 Hearing Room D**

**8:15 A.M. Tapes 209 - 210**

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

**Rep. Jackie Taylor, Vice-Chair**

**Rep. Jason Atkinson**

**Rep. Richard Devlin**

**Rep. Juley Gianella**

**Rep. Deborah Kafoury**

**Rep. Jeff Kruse**

**Rep. Jeff Merkley**

**Rep. Susan Morgan**

**STAFF PRESENT: Cara Filsinger, Administrator**

**Harrison Conley, Administrator**

**Danielle Hamilton, Administrative Support**

**MEASURES HEARD: SB 1184B ñ Work Session**

**SB 1267A ñ Work Session**

**SB 778A ñ Work Session**

**SB 847 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 209, A		

004	Chair Welsh	Calls meeting to order at 8:40 a.m. and opens work session on SB 1184B.
<b><u>SB 1184B WORK SESSION</u></b>		
013		Staff distributes proposed ñB3 amendments ( <b>EXHIBIT A</b> ).
019	Jon Chandler	Oregon Building Industry Association. Details changes proposed by the SB 1184-B3 amendments.
062	Chair Welsh	Asks if the issue Rep. Merkley raised about Clackamas County was addressed.
068	B.J. Smith	Clackamas County. States that Clackamas County is in agreement with the proposed amendments.
081	Chandler	Discusses concerns expressed by Wilsonville. Comments the proposed amendments address their concerns.
087	Dave Hunnicutt	Oregonians in Action. Testifies in support of the SB 1184-B3 amendments. Discusses Section 3 of the SB 1184ñB3 amendments.
117	Bob Rindy	Department of Land Conservation and Development (DLCD). Testifies in support of the SB 1184-B3 amendments. Suggests conceptual amendments to line 13 of the SB 1184-B3 amendments. Comments that the application approval should also be consistent with local codes. States Section 4, regarding "pattern or practice" of denying applications, should not take effect when activities are denied that are not authorized by local zoning.
168	Chair Welsh	Asks where would he put the wording.
172	Bob Rindy	Answers that he does not know. Offers suggested language.
179	Chandler	States that the language is implied. Comments that the moratorium statutes are complicated. Comments on DLCD recommended language.
206	Chair Welsh	Asks if the proponents will work on suggested language.
210	Chandler	Answers that they will work on it.
220	Chair Welsh	Closes work session on SB 1184B and opens a work session on SB 1267A.
<b><u>SB 1267A WORK SESSION</u></b>		

235	Harrison Conley	Committee Administrator. Explains the SB 1267-A4 amendments ( <b>EXHIBIT B</b> ).
260	Rep. Taylor	Expresses her concerns with SB 1267A.
299	<b>Rep. Kruse</b>	<b>MOTION: Moves to ADOPT SB 1267-A4 amendments dated 6/16/99.</b>
		<b>VOTE: 9-0</b>
	<b>Chair Welsh</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
310	Chair Welsh	Closes work session on SB 1267 A and opens a work session on SB 778 A.
<b><u>SB 778A WORK SESSION</u></b>		
327		Staff distributes proposed ñA4 and ñA5 amendments ( <b>EXHIBITS C and D</b> ).
338	Rod Harder	Oregon Sportsmens Defense Fund. Discusses the SB 778-A5 amendments. Provides committee a copy of an Attorney Generalis letter ( <b>EXHIBIT E</b> ).
375	Jim Greer	Director, Oregon Department of Fish and Wildlife (ODF&W). Reviews Attorney General opinion in ( <b>EXHIBIT E</b> ). Comments on outcome if ODF&W employees are separated out.
<b>TAPE 210, A</b>		
018	Rep. Kruse	Expresses concerns with the broad scope of the SB 778-A5 amendments.
025	Chair Welsh	Asks the committee to stand at ease at 9:10 a.m.
028	Chair Welsh	Reconvenes meeting at 9:20 a.m.
037	Phil Donovan	Oregon Guides and Packers Association and Northwest Sportfishing Industry Association. Testifies in support of SB 778A. States opposition to the SB 778-A5 amendments.
067	Chair Welsh	Closes work session on SB 778A and opens public hearing on SB 847.
<b><u>SB 847 PUBLIC HEARING</u></b>		

078	Cara Filsinger	Committee Administrator. Summarizes SB 847. Distributes copies of letters from Jeb Bladine and the City of Portland ( <b>EXHIBITS F and G</b> ).
089	Hasina Squires	Special Districts Association. Testifies in support of SB 847 ( <b>EXHIBIT H</b> ). Comments that performance evaluations are a useful tool for managers. Comments that disciplinary actions are currently exempt from the public records law.
130	Rob Carnahan	Oregon Fire Service Legislative Council. Testifies in support of SB 847. Provides example of request for personnel evaluation.
181	Chair Welsh	Asks how the information will be accessed if SB 847 passes.
183	Maria Keltner	Local Government Personnel Institute ( <b>EXHIBIT I</b> ). Responds to Rep. Welsh's question.
181	Chair Welsh	Asks what would be involved.
194	Keltner	Answers it involves the individual requesting the information to show there is a public interest.
195	Chair Welsh	Asks if that takes court action.
197	Keltner	Responds that initially the public body determines the public interest. States if the public body determines there is none, then it can be appealed to the district attorney.
203	Chair Welsh	Asks if a city council or county commission makes that determination.
206	Keltner	Replies that is correct.
207	Rep. Morgan	Asks if the appeal process is listed in SB 847.
210	Keltner	Responds it is the same process for any public record.
215	Rep. Morgan	Inquires if the process is in rule or statute.
218	Keltner	States she is not certain.
221	Keltner	Says the process for state agencies is somewhat different.
226	Rep. Taylor	Asks about the process to get information about personnel matters. Asks how

		members of the public get the information.
265	Squires	Responds to Rep. Taylor's questions. States the employee has access to their own records. Comments on role of elected officials.
286	Rep. Taylor	Asks if the public may ask about the evaluation process, but not for the content of the evaluation.
291	Squires	Answers not unless the public interest requires its disclosure. Comments on the Attorney General's opinions requiring public bodies to disclose information.
304	Rep. Merkley	Asks if under former law the records were available, why they went to the Attorney General.
310	Squires	Answers that the state agency refused to disclose the information.
314	Rep. Merkley	Asks if the ruling came under a different statute.
315	Squires	Defers the question to the Newspaper Publishers Association.
319	Chair Welsh	Clarifies the relevant statute.
328	Squires	States that the public body is the ultimate authority.
337	Keltner	Continues testimony in support of SB 847. Discusses unreasonable invasion of privacy. Comments on the public interest test.
405	Lori Brocker	Oregon Newspaper Publishers Association. Testifies in opposition to SB 847 ( <b>EXHIBIT J</b> ). Responds to Rep. Taylor's concern regarding good performance evaluations. States current law already provides protection.
<b>TAPE 209, B</b>		
050	Brocker	Discusses Attorney General's opinions regarding public records disclosure. Comments that information that is "unreasonable invasion of privacy" does not need to be disclosed now. States that the documents that support a disciplinary action are exempt from disclosure.
097	Rep. Taylor	Asks about the statement that many administrators are afraid to write thorough evaluations. Expresses her concerns about the records being public.
130	Brocker	States that the disciplinary action materials are currently exempt from disclosure. Discusses Attorney General opinions regarding disclosure.

169	Les Zaitz	Publisher, Keizer Times. Testifies in opposition to SB 847. States the bill goes against the concept of "good government." Comments that public accountability is degraded if SB 847 passes.
230	Zaitz	Questions whether there is a problem. Provides examples of his personal experience using the public records law.
278	Rep. Merkley	Asks how SB 847 addresses the issue of requesting a large number of evaluations from an agency.
295	Zaitz	States that they would not have access to the records except through the appeals process.
312	Rep. Merkley	Points out that in some cases the issue is not privacy.
314	Zaitz	Agrees with Rep. Merkley.
318	Brocker	Agrees with Rep. Merkley.
320	Rich Peppers	Oregon Public Employees Union (OPEU). Testifies in support of SB 847. Comments the change in presumption is toward more privacy.
370	Peppers	Discusses example of an employer getting a request for information about a former employee.
430	Peppers	States that even the employee unions cannot get access to an employee's personnel evaluations without consent of the employee.
438	Chair Welsh	Asks if the documentation on a performance evaluation is to justify and qualify an employee's performance.
459	Peppers	States that not all employers will document critical information but will offer verbal critiques.
461	Chair Welsh	Comments that is the manager's choice.
463	Peppers	Agrees with Chair Welsh.
<b>TAPE 210, B</b>		
005	Rep. Merkley	Asks about history in changes in the balance between public and private interests.

018	Peppers	Says he cannot answer the question.
021	Rep. Merkley	Asks for an expansion on Pepperis concerns.
038	Pepper	Responds that information from disclosed information could be combined with other information, such as addresses or credit card information.
063	Chair Welsh	Closes public hearing on SB 847 and adjourns at 10:20 a.m.

Submitted By, Reviewed By,

Danielle Hamilton, Jennifer Peck,  
Administrative Support Committee Coordinator

Reviewed By, Transcribed By,

Harrison Conley, Cara Filsinger,  
Committee Administrator Committee Administrator

**EXHIBIT SUMMARY**

- A ñ SB 1184, proposed ñB3 amendments, staff, 1 p**
- B ñ SB 1267, proposed ñA4 amendments, staff, 1 p**
- C ñ SB 778, proposed ñA4 amendments, staff, 1 p**
- D ñ SB 778, proposed ñA5 amendments, staff, 1 p**
- E ñ SB 778, written testimony, Rod Harder, 3 pp**
- F ñ SB 847, written testimony from Jeb Bladine, staff, 1 p**
- G ñ SB 847, written testimony from City of Portland, staff, 1 p**

**H ñ SB 847, written testimony, Hasina Squires, 1 p**

**I ñ SB 847, written testimony, Maria Keltner, 1 p**

**J ñ SB 847, written testimony, Lori Brocker, 1 p**