

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

February 22, 1999 Hearing Room 50

4:30 P.M. Tapes 50 - 52

MEMBERS PRESENT: Sen. Gary George, Chair

Sen. Thomas Wilde, Vice-Chair

Sen. Tony Corcoran

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Bill Fisher

MEMBER EXCUSED:

STAFF PRESENT: Brad Harper, Administrator

Kristal Hatton-Nease, Administrative Support

MEASURES HEARD: SB 234 Public Hearing

Introduction of Committee Bill

SB 278 Public Hearing and Work Session

SB 85 Public Hearing and Work Session

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 50, A		
002	Chair George	Convenes meeting at 4:37 p.m.
<u>SB 234 PUBLIC HEARING</u>		

010	Chuck Craig	Assistant Director, Oregon Department of Agriculture. Summarizes what happened in respect to SB 234 since the 2/18/99 public hearing. Gives information on the -3 and ñ4 amendments. Explains there is a draft error in the ñ3 amendments.
060	Sen. Wilde	Asks how serious, in terms of public health, are inspections violations.
065	Ron McKay	Administrator, Food Safety Division, Oregon Department of Agriculture. Says according to the epidemiology center at the state Health Division there have been no illnesses epidemiologically linked to frozen desserts in the state of Oregon.
078	Craig	Says ODA and Health Division entered into an agreement to cease the duplication of inspection of facilities that overlap between the two departments. Adds the departments adopted each other's rules and developed a memorandum of agreement so each department would inspect a facility on the predominant type of activity in a certain area. Says ODA prefers to get out of the business of inspecting frozen desserts. Adds this is more of a quality issue than a public/food safety issue. Adds processors wanted to keep this provision in SB 234 because it protects the integrity of dairy products manufacturers.
112	Sen. Wilde	Comments when only one inspection occurs every 18 months that it is hard to ensure quality.
118	Chair George	Asks if the ODA believes the health division is doing a good inspection job.
121	McKay	Answers yes. Submits hand-engrossed ñ3 amendments [EXHIBIT A] .
129	Craig	Discusses changes to the ñ3 amendments.
170	Sen. Dukes	Asks if the ODA has changed the definition of "frozen dessert".
172	Craig	Replies the definition of "frozen dessert" in ORS Chapter 621 references the Code of Federal Regulations. Says if the ODA is going to relinquish the retailer inspection there needs to be a section added that amends ORS 621.335 to eliminate licensing of retail establishments and the fees associated with it.
204	Chair George	Closes public hearing on SB 234.
<u>INTRODUCTION OF COMMITTEE BILL</u>		
219	Brad Harper	Committee Administrator. Explains LC 2746. [EXHIBIT B]
232	Sen. Corcoran	Explains why he objects to moving LC 2746. Says that since Sen. Ferrioli brought this forth he should be here to answer questions from committee members.

258	Chair George	Declares meeting in recess at 4:53 p.m. to await the arrival of Sen. Ferrioli.
265	Chair George	Re-convenes meeting at 4:55 p.m. Opens public hearing on SB 278.
<u>SB 278 PUBLIC HEARING</u>		
272	Brad Harper	Committee Administrator. Explains SB 278 transfers support services of the Pioneer Cemetery Commission from the Oregon Department of Administrative Services to the State Parks and Recreation Department.
287	Bill Nickleberry	Lands Manager, Oregon Department of Administrative Services (DAS) and Executive Secretary, Pioneer Cemetery Commission. Submits [EXHIBIT C] and testifies in support of SB 278. Discusses the Commission's responsibilities and says DAS wants to transfer the Commission to an agency that has more experience supporting this kind of commission.
325	Jeanne Robinson	Chair, Pioneer Cemetery Commission. Submits [EXHIBIT D] and testifies in support of SB 278. Says that the Pioneer Cemetery Commission has worked to improve Oregon's cemetery laws. Discusses SB 405 (1997) which would have changed the crime of abuse of a memorial to the dead from a misdemeanor to a 1st degree felony, make the buying or selling of a memorial to the dead a 2 nd degree felony, and add wording to ORS 166.076(3) that permits exemption from this law only for the purpose of maintaining, protecting, or improving memorials. Adds this legislation is being re-introduced this session.
367	Chair George	Asks if DAS has considered combining the Heritage Commission and the Pioneer Cemetery Commission.
371	Nickleberry	Answers no.
375	Sen. Dukes	Asks if the Pioneer Cemetery Commission has a budget.
380	Robinson	Responds the Pioneer Cemetery Commission did appear before the legislative Emergency Board to request some money.
385	Sen. Dukes	Asks if the Pioneer Cemetery Commission has a regular budget.
387	Nickleberry	Says there was originally no budget for the Pioneer Cemetery Commission.
398	Sen. Dukes	Asks how the money for the upkeep of cemetery is obtained.
400	Robinson	Responds there is no money for that. Adds Rep. Mannix is introducing legislation that would give the Pioneer Cemetery Commission money.

409	Sen. Dukes	Asks what the Pioneer Cemetery Commission does.
411	Robinson	Responds the Pioneer Cemetery Commission discusses laws and whether any need to be changed. Adds the Pioneer Cemetery Commission holds meetings, which the public attends and provides feedback.
434	Chair George	Asks if the Parks and Recreation Department will be picking up the cost of moving to that next level.
439	Robinson	Says she donit anticipate that happening.
TAPE 51, A		
007	James Hamrick	Deputy State Historic Preservation Office, Oregon Parks and Recreation Department (OPRD). Submits [EXHIBIT E] and testifies in support of SB 278. Says OPRD has no objection to the transfer of the Pioneer Cemetery Commission because of the department's other heritage programs.
031	Chair George	Asks if the Oregon Parks and Recreation Department will absorb the Pioneer Cemetery Commission into its budget.
034	Hamrick	Responds there is a proposal in the Parks budget to fund S & S for the Pioneer Cemetery Commission and to fund the 2.5 FTE. Adds the requested amount for the Pioneer Cemetery Commission is \$45,000 per biennium.
039	Sen. Fisher	Asks if the money for the .25 FTE will be deducted from DAS's budget.
042	Hamrick	Says DAS was going to absorb the .25 FTE into the DAS budget.
045	Nickleberry	Comments DAS was going to give the \$45,000 to the Pioneer Cemetery Commission.
058	Sen. Fisher	Asks if that is the Pioneer Cemetery Commission's whole budget.
059	Hamrick	Answers that is the whole budget.
063	Sen. Fisher	Questions if the .25 FTE reasonable for the amount of work that needs to be done.
066	Hamrick	Replies the Pioneer Cemetery Commission could do with .25 FTE. Comments the Pioneer Cemetery Commission is a very active commission.
075	Chair George	Closes public hearing on SB 278. Opens work session on SB 278.

SB 278 WORK SESSION

084	Sen. Wilde	MOTION: Moves SB 278 to the floor with a DO PASS recommendation.
090		VOTE: 6-0
	Chair George	Hearing no objection, declares the motion CARRIED. SEN. DUKES will lead discussion on the floor.
092	Chair George	Closes work session on SB 278.

COMMITTEE BILL INTRODUCTION

096	Sen. Ferrioli	Explains the purpose of LC 2674. Says this was created after some discussion with Northwest Forestry Contractors Association. Adds the Bureau of Labor and Industries (BOLI) currently requires notification to workers about the basic employment conditions, wages, hours, benefits, and other items supplied by the employer. Says the law is being interpreted by BOLI to indicate any time employment conditions change there needs to be a new written document disclosing how that change would affect the employer and to provide proof that the employer was notified of that change.
150	Sen. Ferrioli	Says this LC 2674 was introduced at the request of the reforestation contractors because they would like to have a little relief from the paper requirement. Adds LC 2674 was intended to stimulate discussions between the agency and the contractor's association about the reporting requirement with the hope that this kind of discussion will create some reduction of paperwork requirements.
203	Sen. Corcoran	Calls attention to page 3, line 18. Asks what is the difference between <i>ëassureí</i> and <i>ëensureí</i> .
215	Sen. Ferrioli	Says that in <i>ëassureí</i> means assure and <i>ëensureí</i> means ensure.
217	Sen. Corcoran	Reiterates his objection to move LC 2746 forward.
218	Sen. Dukes	Calls attention to page 7. Says the material contained in section one applies to farm labor contractors duties to workers hired, recruited, or solicited, or supplies before, on, or after the effective date of this 1999 Act. Comments she would assume that any fines given to contractors violating this would be null and void. Asks if this is correct.
226	Sen. Ferrioli	Says he is not sure that would automatically void any fines or findings of the agency. Says what this act would require a finding of fact that there was harm to a worker who had not had a change done in writing.

249	Sen. Dukes	Says she has concerns about saying section one applied to anything that happened before this act was passed.
263	Judy Hall	Secretary of the Senate. Says LC 2746 has a date of 2/2/99. Says the most expeditious way to have it introduced is to give it to Senate Rules Committee and get its approval to have LC 2746 introduced.
281	Sen. Ferrioli	Says he will submit the request to Senate Rules Committee.
286	Sen. Dukes	Comments she would be more comfortable if it were more narrowed down to deal with the farm workers Sen. Ferrioli is concerned about who may be getting recruited from another state without knowing the conditions of employment in Oregon.
307	Sen. Ferrioli	Says it was his impression that tree planters fall under the agricultural worker statutes. Adds that since LC 2746 was produced he has consulted with the Associated Oregon Loggers and heard they have also met with the reforestation contractors.
325	Sen. Fisher	Comments his understanding is that a newspaper ad would be required to have the entire text of job conditions.
334	Sen. Ferrioli	Replies there are reporting requirements in recruiting and soliciting so a person would have to disclose wages, hours, conditions, benefits, etc.
338	Sen. Fisher	Asks if he was a forest worker contractor and ran a newspaper ad to recruit workers would he need to put all the information discussed into the agency and the newspaper ad.
346	Sen. Ferrioli	Responds only when there was a personal contact between the employer and prospective employee on a recruitment basis.
364	Chair George	Opens public hearing on SB 85.
<u>SB 85 PUBLIC HEARING</u>		
374	Brad Harper	Explain SB 85 allows commercial composting facilities on land zoned for exclusive farm use. Says that there is a fiscal impact statement issued by the Legislative Fiscal Office. [EXHIBIT F]
390	Jack Hoeck	Composting Council of Oregon. Submits [EXHIBIT G] and testifies in support of SB 85. Explains SB 85 promotes the safe production and use of quality compost in Oregon by: <ol style="list-style-type: none"> 1. Providing industry interaction, education, and input to regulators, legislators, and the general public. 2. Expanding markets for Oregon compost.

		3. Establishing ethical guidelines for the Oregon Compost Industry.
440	Hoeck	Says that as water quality issues from non-source points come under more scrutiny, the Composting Council of Oregon believes compost will become a valuable tool to reduce pollutants coming from farm practices.
TAPE 50, B		
020	Glen Zimmerman	Chair, Composting Council of Oregon. Testifies in support of SB 85. Says this has surfaced because all composting is under either Department of Agriculture exemption or under Department of Environmental Quality.
045	Sen. Fisher	Says this subject was brought up during a meeting of the Interim Committee on Commercial Recycling.
072	Chair George	Comments this is happening in California. Asks how many acres a composting site typically encompasses.
080	Zimmerman	Answers less than 20 acres for each site. Comments on a composting site in Seattle, called Cedar Grove, which encompasses 26 acres. Adds smaller sites take up less than acreage and that there are less than 40 sites in Oregon.
098	Chair George	Asks what is the average acreage for composting sites.
099	Zimmerman	Replies his site encompasses five acres.
102	Hoeck	Answers the acreage is most likely 5 to 10 acres.
106	Chair George	Asks if Hoeck is familiar with what is happening in California.
112	Hoeck	Says most of the California composting is being done on agricultural land and that there have been some benefits. Comments what his facility does with farm residuals.
142	Sen. Ferrioli	Asks if money from the sale of compost can be classified as farm income to help meet the farms requirements for income production.
145	Hoeck	Says he does not know.
148	Chair George	Says that as agricultural industry moves toward bigger farms there has been a lot of compaction to the weight of the equipment. Says this type of legislation looks like an asset.

162	Zimmerman	Comments the solid waste community is finding yard debris must be taken out of the way of streams and made into productive compost.
175	Kristen Mitchell	Oregon Refuse and Recycling Association. Testifies in support of the concept of permitting commercial composting facilities and wants to make sure that technology becomes possible for more composting that it is also possible to site the facilities. Says the Oregon Refuse and Recycling Association is not convinced SB 85 has the best language possible in it but would be happy to work out any concerns.
204	Paul Cosgrove	American Forest and Paper Association. Testifies in support of the concept of composting. Comments the land use area is very complex and he is glad to help in any way.
232	Chair George	Comments on the odor from composting facilities.
240	Mitchell	Points out there have been composting for some time. Adds that DEQ went through a two-year process to put together composting regulations.
266	Chair George	Asks if there have been any studies conducted on contaminants that may be present in waste from mills.
275	Cosgrove	Answers yes. Says some DEQ regulations have dealt with feedstockis and standards. Says that in some cases pulp mill sludge is not composted but is directly land applied because they have met testing requirements. Says there is a variety of standards put into place.
292	Doug Meyers	Association of Oregon Recyclers. Submits [EXHIBIT H] and testifies in support of SB 85. Explains letter from Judy Crockett of the Association of Oregon Recyclers and an article from <i>Biocycle</i> magazine. Says there are some problems with bill and the Association of Oregon Recyclers would be willing to suggest amendments.
341	Sen. Wilde	Asks if Oregon has difficulty with siting composting facilities in suburban and urban areas.
346	Meyers	Replies he does not know.
350	Sen. Fisher	Comments it became evident in the Interim Commercial Recycling Committee that it wasnit easy to site composing facilities. Says he is surprised there was one in the Lane County area. Adds this was a great problem and that people from cities thought only farms should have compost sites.
368	Sen. Wilde	Says he was on the Interim Commercial Recycling Committee and discusses testimony presented to the committee on the siting of composting facilities.
384	Bob Rindy	Department of Land Conservation and Development. Submits [EXHIBIT I] and

		testifies in opposition to SB 85. Says DLCD's concern with SB 85 is that it will allow non-farm use on high-value farmland that is not needed because composting operations in conjunction with a farm or that are supportive of the local agricultural area are already allowed on high-value farmland in an EFU zone.
434	Rindy	Discusses the two ways for commercial compost operation to be approved in an EFU zone and existing compost operations.
TAPE 51, B		
009	Rindy	Says that according to recent DEQ information, 23 existing composting operations are registered and of those, 15 are located inside urban growth boundaries (UGBs) and the remaining 8 are outside UGBs. Adds it is not clear why this bill is needed and says the legislature does not need to adopt SB 85.
012	Jim Johnson	Oregon Department of Agriculture. Submits [EXHIBIT J] and testifies that the department supports the use of compost as a beneficial source of crop nutrients when applied at agronomic rates. Discusses the ways composting facilities related agriculture may currently be sited in a rural area.
047	Chair George	Asks if commercial composting facilities are allowed to be sited on EFU land.
050	Johnson	Replies it would depend on if the commercial composting operation is related to agriculture or not. Says if it is an operation not related to agriculture then it would not be allowed on high value farmland. Adds it could be allowed on other farmland types.
067	Sen. Fisher	Asks what is the definition of feedstock.
068	Matt Haines	Oregon Department of Agriculture. Says there are three different types of feedstock: green, non-green, and supplemental feedstocks. Says the Department of Agriculture regulates supplemental feedstocks, which are feedstock that are needed to facilitate the composting of materials farmers produce on their farms.
083	Chair George	Asks if DLCD authorizes use facilities on at least 75% of the state's agricultural land.
085	Johnson	Says operations that relate to agriculture are currently allowed and those that are not related to agriculture can be allowed on non-value farmland.
093		Questions and answers between Sen. Ferrioli and Johnson regarding different scenarios of composting on farmland.
144	Chair George	Asks if people can build on high value farmland if it is inside the UGB.

150	Rindy	Says if it was in a UGB than it would not be high value farmland.
154	Chair George	Asks if people can build on class one soil if it is inside the UGB
156	Rindy	Says he thought the chair asked about "high value farmland" and not "class one soil". Adds if it is class one soil inside the UGB then an operation could be approved.
162	Sen. Fisher	Asks if the witnesses have ever operated business.
165	Rindy	Says he operated a business but that it did not deal with agricultural issues.
167	Sen. Fisher	Asks if there was a certain factor of how much material he had to have in order to make the business succeed.
169	Rindy	Answers yes.
170	Sen. Fisher	Says there comes a time during a business when something is not profitable and there is not enough material to make any money.
198	Rindy	Comments on high value farm land. Says composting is conditionally permitted everywhere except on high value farm land unless a person can not operate the facility in any manner such that either 51% of the material came from the farms or 51% was sold to other farmers.
237	Sen. Fisher	Comments people can't operate under those restrictions.
242	Sen. Ferrioli	Understands the witnesses are trying to defend a principal and says the problem with their suggestion is that it is not realistic. Says it subjects people to the local land use process that can be appealed by the citizens in the neighborhood or LCDC.
292	Sen. Ferrioli	Adds a person may have 2-3 years invested just in the land use process to get the decision Rindy and Johnson are talking about. Says we should be every careful about the conversion of high value farm land into other uses.
337	Sen. Fisher	Comments on urban growth boundaries.
356	Rindy	Says he did not realize the committee would be talking about urban growth boundaries. Says he is willing to bring information on the amount of land that is put into UGBs. Adds most UGB land is not high value farmland. Says rules and statutes adopted in recent years have made it more difficult to put high value farmland in UGBs.

384	Chair George	Says he has soil maps of Clackamas, Washington, Yamhill and Multnomah Counties that he will show to Sen. Fisher.
438	Chair George	Comments yard waste, food processing waste, and agricultural residue make up roughly 35% of Oregon waste stream. Asks if these be processed in an EFU zone.
450	Johnson	Says if they are processed as agricultural use, then they can.
452	Chair George	Asks if the materials are sold back to city.
455	Haines	Responds they are if they are used as an agricultural use.
TAPE 52, A		
008	Chair George	Comments the agriculture industry is under a great amount of stress. Says California is allowing their agriculturists to enter into enterprises like composting to yield additional farm income. Asks if Oregon is going to deprive Oregon farmers of that right.
012	Johnson	Responds no.
013	Chair George	Says they are not only processing the agricultural waste but also the yard waste as well.
018	Johnson	Replies if it is related to a agricultural product or it is to be used for an agricultural use it can be allowed on a zone. Adds the if it is not related to an agricultural operation and it is not on high value farmland then it could also occur outside a UGB.
023	Lauri Aunan	Legislative Coordinator, Oregon Department of Environmental Quality (DEQ). Submits [EXHIBIT K] and testifies that DEQ is neutral on SB 85. Says DEQ is happy to work with agencies. Says the rules are not about citing but they are to address complaints about odor and discharges into water.
060	Chair George	Asks what percent is currently compost of residual products.
064	Aunan	Says the last DEQ recovery rate was taken in 1997 and it found that yard debris was 19% of the total. Says she does not have data on the percentage of organic materials that are being covered relative to what is exposed. Says she can find that out.
069	Chair George	Asks what would be a normal dumpsite.

074	Aunan	Replies food waste is a large percentage. Adds if there were enough facilities that waste could be recovered out of the waste stream.
078	Chair George	Asks what is the total tonnage.
079	Aunan	Says she can find that out and report back to the chair.
082	Don Schellenberg	Associate Director of Governmental Affairs, Oregon Farm Bureau Federation. Testifies in opposition to SB 85. Says Farm Bureau policy is to oppose more non-farm activities in EFU zones. Says ORS 215.213 deal with non-farm uses in EFU zones.
122	Schellenberg	Continues testimony, saying the Oregon Farm Bureau Federation is not opposed to the idea of composting. Says the issue for the Oregon Farm Bureau Federation is should a commercial activity be allowed on best high value farmland.
144	Sen. Fisher	Asks if there is anything about a composting facility that destroys prime farmland.
155	Schellenberg	Responds the issue isn't whether the land can be returned but rather should good prime farmland be taken out of production. Says the Oregon Farm Bureau Federation's answer to that is no, it should not.
161	Chair George	Asks if the Oregon Farm Bureau Federation would support SB 85 if the committee deleted that section.
165	Schellenberg	Answers no because SB 85 would still allow for commercial use on high value farmland.
175	Chair George	Comments on a food processing plant near Brooks, Oregon. Asks if the Oregon Farm Bureau Federation opposes that.
179	Schellenberg	Says that if it is commercial activity located in an EFU zone it could be argued that it is in conjunction with farm use because it serves only farmers.
185	Chair George	Comments it is on prime farmland.
186	Schellenberg	Says that is fine because it is a commercial activity related to farm use.
187	Chair George	Asks if farmers can wreck prime farmland but composters can not.
188	Schellenberg	Replies farmers can use farmland as it suits the economic needs of their operation.

191	Chair George	Asks if it is okay for a farmer to cover prime farmland with rock and plants.
195	Schellenberg	Replies if it is the best use of the land.
200	Sen. Ferrioli	Says he values farmland. Adds the opposition to SB 85 is making too much of a defense on the principal issues. Says there is a potential for income in rural communities.
235	Chair George	Closes public hearing on SB 85. Opens work session on SB 85.
<u>SB 85 WORK SESSION</u>		
240	Sen. Wilde	MOTION: Moves SB 85 to the floor with a DO PASS recommendation.
245		VOTE: 4-0 EXCUSED: 2 - Dukes, Corcoran
	Chair George	Hearing no objection, declares the motion CARRIED. SEN. WILDE will lead discussion on the floor.
255	Chair George	Adjourns meeting at 6:50 p.m.

Submitted By, Reviewed By,

Kristal Hatton-Nease, Brad Harper,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Proposed amendments to SB 234, Ron McKay, 2 pp.

B ñ LC 2674, Staff, 7 pp.

C ñ Written testimony on SB 278, Bill Nickleberry, 1 p.

D ñ Written testimony on SB 278, Jeanne Robinson, 1 p.

E ñ Written testimony on SB 278, James Hamrick, 1 p.

F ñ SB 278 Fiscal Impact Analysis, Staff, 1 p.

G ñ Written testimony on SB 85, John Hoeck, 2 pp.

H ñ Written testimony on SB 85, Doug Meyers, 4 pp.

I - Written testimony on SB 85, Richard Benner, 2 p.

J - Written testimony on SB 85, Jim Johnson, 2 p.

K - Written testimony on SB 85, Lauri Aunan, 2 p.