

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

April 15, 1999 Hearing Room 50

4:30 p.m. Tapes 100 - 101

MEMBERS PRESENT: Sen. Gary George, Chair

Sen. Thomas Wilde, Vice-Chair

Sen. Tony Corcoran

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. Marilyn Shannon

STAFF PRESENT: Brad Harper, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: SB 1028 Public Hearing

SB 813 Public Hearing and Work Session

SB 940 Public Hearing

SB 1212 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 100, A		
002	Chair George	Calls the meeting to order at 4:50 p.m. Opens a public hearing on SB 1028.
<u>SB 1028 PUBLIC HEARING</u>		

004	Chair George	Indicates that the amendments to the bill have not been received from Legislative Counsel. States that the committee will hold another hearing upon receipt of the amendments. Closes the public hearing on SB 1028 and opens a public hearing on SB 813.
<u>SB 813 PUBLIC HEARING</u>		
010	Brad Harper	Committee Administrator. Gives a brief description of the bill. Explains the memorial marker program that the bill would create. Says that testimony was provided by the sponsor of the bill, John Wolz (EXHIBIT A), who was unable to attend the hearing.
020	Jim Lockwood	Representative, Oregon Parks and Recreation Department. Testifies that the Parks Department has taken a position of neutrality on SB 813. Indicates that the department already does similar types of work and has no trouble with the addition of specific authorization. Adds that the department has no comment on the section of the bill that would impact cities.
036	Chair George	Requests the fiscal impact statement that was provided by the Parks Department.
038	Harper	Indicates that Mr. Lockwood provided the information to the committee.
040	Chair George	Recalls previous legislation in which the transfer of properties was relatively cheap.
045	Lockwood	Concurs with the chair and states that acquisition of property through donation requires only the cost of taking care of the property in perpetuity. Indicates that the cost of care involves maintenance and litter police. Asserts that the bill cannot do harm to the Parks Department and suggests that there is potential for significant benefits.
060	Chair George	Comments on the purchasing of memorial bricks. States that such memorials allow people to take ownership in facilities as well as inspiring interest in them.
067	Lockwood	Reiterates that the Parks Department has similar programs in place and that the bill would make the practice explicit.
073	Sen. Fisher	Wonders how much land is already available for parks. Suggests that the department is not suffering a shortage of available land.
077	Lockwood	Replies that is a "matter of perception." Specifies that the Parks Department is always open to acquiring more land, especially in areas such as the Columbia Gorge. Indicates the funding could go towards such a purchase.
087	Sen. Fisher	Asks what funding source would insure the operation and maintenance of the park after purchase.

096	Lockwood	Replies that the department would need to have a plan for the development of the property before a purchase could take place. Indicates that a substantial number of markers would be required before property could be purchased.
103	Sen. Fisher	Asserts that there is no provision within the bill which would prevent the department from building memorials and then returning later to request the additional funding necessary for upkeep.
112	Chair George	Suggests that there will be a market limit for what could be charged for a brick. States that the Parks Department would merely have control over the placement and structure of the park.
116	Lockwood	Indicates that there is a misunderstanding as to the ease of turning donated lands into parks, asserting that there is far more long range planning necessary than is generally considered. Notes that the bill is not prescriptive, but merely allows the practice.
131	Sen. Fisher	Wonders why counties were left out of the process.
133	Lockwood	Replies that he does not know.
137	Sen. Fisher	Asks if there is a law that currently prohibits the Parks Department from taking such actions.
140	Lockwood	Replies that there is nothing that prevents the department from doing so.
141	Sen. Fisher	Asserts that the bill is "superfluous."
142	Lockwood	Concurs that the bill is superfluous to the Parks Department, adding that there may be substantial impact to the cities.
146	Sen. Fisher	Refers to the submitted letter by the sponsor (EXHIBIT A) that discusses the project at Pioneer Square and indicates that the ability to develop memorials already exists.
161	Lockwood	Concurs with Sen. Fisher.
163	Sen. Wilde	Inquires as to how many locations have been sited as memorial parks.
165	Lockwood	Replies that there is only one location where there are a large number of memorial markers. Says that most locations have a single memorial plaque.
170	Sen. Wilde	Asserts that the bill could serve as encouragement for the creation of memorial parks. Says that his children enjoy them and that such memorials act as a

		"drawing card" to bring people to sites where they might not otherwise go.
180	Lockwood	Concurs with Sen. Wilde. Suggests that memorial parks may become more popular in the future and that demand may then require additional sites.
193	Sen. Fisher	Expresses concern that there is not enough land for the creation of additional state parks. States that an additional incentive for property investment is undesirable.
204	Sen. Dukes	Mentions that the Oregon Department of Transportation (ODOT) has surplus properties adjacent to parks that could be purchased and developed by the Parks Department.
226	Chair George	Closes the public hearing on SB 813 and opens a work session on SB 813.
<u>SB 813 WORK SESSION</u>		
235	Chair George	Expresses support for the bill, reiterating that property could be picked up from ODOT.
241	Sen. Wilde	MOTION: Moves SB 813 to the floor with a DO PASS recommendation.
245	Sen. Fisher	Expresses opposition to the bill. Asserts that it makes no sense to buy land without plans in place to build. Reiterates that counties are not included in the bill.
254	Sen. Dukes	Suggests that counties could be added to the bill's provisions.
256	Sen. Fisher	Asserts that there is nothing which currently prevents the Parks Department from developing such facilities.
266		VOTE: 4-1-1 AYE: 4 - Corcoran, Dukes, Wilde, George NAY: 1 - Fisher EXCUSED: 2 - Ferrioli, Shannon
	Chair George	The motion CARRIES.

		SEN. GORDLY will lead discussion on the floor.
285	Chair George	Closes the work session on SB 813 and opens a public hearing on SB 940.
<u>SB 940 PUBLIC HEARING</u>		
294	Brad Harper	<p>Committee Administrator. Gives a brief description of the bill. Explains that current law specifies that glass containers must be manufactured with a minimum of 35 percent recycled glass content, which increases to 50 percent as of 1-1-2000. Explains that the bill makes three major changes:</p> <ul style="list-style-type: none"> • Eliminates the increase to 50 percent scheduled for 1-1-2000 • Specifies that glass containers manufactured outside of Oregon will only be subject to the recycled content requirements of the state where they are manufactured • Creates an exemption for manufacturers who cannot meet the minimum recycled content requirement due to technological unfeasibility
318	Lev Anderson	<p>Environmental Associate, Oregon State Public Interest Research Group (OSPIRG). Testifies in opposition to SB 940 (EXHIBIT B). States that OSPIRG is committed to increasing the efficiency of recycling. Asserts that minimum content standards are "a key component" of maximizing recycling efforts. Indicates that Oregon has been "a model for the rest of the nation" with regards to recycling.</p>
355	Anderson	<p>Declares that SB 940 is an "attack" on Oregon's current recycling laws. Outlines the reasons for OSPIRG's opposition to the bill:</p> <ul style="list-style-type: none"> • The elimination of the 50 percent minimum content goal • The exemption of certain manufacturers who do not upgrade equipment to meet recycled content standards • Giving out of state plants that bring in lower content products an unfair advantage over Oregon businesses <p>Argues that the 50 percent goal is viable and that the Owens-Brockway plant in Portland is already set to achieve the goal. Asserts that the goal is vital to Oregon's recycling industry. Notes that there is only one plant on the West Coast, the Ball-Foster plant in Seattle, which does not currently meet the 35 percent standard. Offers to work with the supporters of the bill to develop compromise language.</p>
410	Chair George	Expresses a desire for both sides to work out an equitable solution.
TAPE 101, A		
010	Sen. Wilde	Wonders if OSPIRG has taken a position on the change in the City of Portland's recycling policy.
014	Anderson	Replies that it is important to separate various types of glass, since the commingling of clear, green, and brown glass lowers the quality of the product

		for reuse. Expresses support for minimal changes in the curbside program, adding that OSPIRG opposes the changes proposed by the City of Portland.
023	Sen. Wilde	Notes that specific equipment is required to sort glass containers and that not all facilities have such equipment. Requests clarification as to OSPIRG's position on the changes in Portland's program.
028	Anderson	Replies that it is imperative that colored glass remain separate from clear glass.
035	Sen. Wilde	Mentions that he has heard that low quality cullet would be sent to the California market, which is equipped to handle lower quality product. Indicates that arbitrary changes such as the one proposed by the City of Portland can create significant problems for manufacturers.
044	Anderson	Asserts that almost all of the plants are capable of meeting the 35 percent requirements and that there is no need for a state law to deal with the remainder.
050	Sen. Fisher	Takes exception to Mr. Anderson's assessment of the 50 percent requirement as "economically viable." Argues that OSPIRG has a history of interfering with business practices without having the necessary business experience to make qualified assumptions, such as the economic viability of a recycling program.
067	Anderson	Explains that his assessment is based upon statements by Owens-Brockway, the chief Portland-based recycling plant, which has indicated that it will be able to meet the goal while maintaining profitability.
077	Sen. Fisher	Expresses doubt that Mr. Anderson's assessment is accurate. Suggests that the burden of increased content requirements is unnecessary and troublesome for businesses. Asserts that if the program is economically viable then businesses will continue the practice on their own.
105	Mark Nelson	Public Affairs Counsel, Glass Packaging Institute (GPI). Testifies in support of SB 930. Indicates that progress has been made towards reaching a compromise and offers to bring compromise amendments to the committee in the near future. Indicates that the 50 percent requirement should be eliminated due to the possibility that the City of Portland may go ahead with its plans to allow commingling of glass materials. Notes that California eliminated its 50 percent requirement 4 years ago. Asserts that remaining at the 35 percent standard would allow for easier dealings with other states. Mentions that the exemption is targeted at plants such as the Ball-Foster plant in Seattle, which produces "dead leaf green" colored bottles that require a low percentage of recycled cullet.
177	Chair George	Wonders why the City of Portland opposes SB 930 for "gutting the Oregon requirements" (EXHIBIT C) when it appears to be contributing to the problems associated with achieving the 50 percent requirement.
183	Nelson	Mentions that all parties have fought the City of Portland on its proposal to allow commingling in curbside recycling programs.

191	Sen. Fisher	Asserts that OSPIRG's assessment of economic viability is indefensible. States that commingling should be restricted if it limits the ability to get products onto the shelf. Explains that the process of producing cullet is more complex than the requirements take into account. Suggests that the reason that there are so few glass plants in Oregon is that the requirements are too stringent, costly, and detrimental to productivity. Argues that the state should not force unnecessary requirements on manufacturers simply because they can bear the brunt of them.
251	Nelson	Concurs with Sen. Fisher. Reiterates that GPI and the Department of Environmental Quality (DEQ) have objected to Portland's proposed changes.
260	Sen. Wilde	Finds it ironic that the City of Portland has moved towards franchise haulers while the rest of the nation has abandoned them for competitive haulers. Suggests that the bill could be amended to require the City of Portland to sort glass at the curbside.
277	Tom Mabie	Representative, GPI. Emphasizes that it is unfair to single out the Seattle plant as the sole reason for the exemption. Indicates that there is concern that Oregon plants will be unable to achieve and maintain the 50 percent goal, and that California has already determined that it would be unable to maintain the goal due to a shortage of cullet. Explains that California imports cullet from Oregon in order to meet its 35 percent requirement. Argues that states such as Minnesota and Oklahoma, which have no minimum requirements, are unlikely to comply.
320	Mabie	Discusses the practices of the Owens-Brockway plant. Suggests that the plant will continue to utilize the 50 percent standard so long as it is viable. Notes that there is not sufficient infrastructure in Washington to sustain the 50 percent standard at all of its factories. Asserts that the Ball-Foster plant is unique in that 65 percent of its output is "dead leaf green," which requires very specific content incompatible with 35 percent recycled materials.
356	Sen. Fisher	Requests clarification as to the relationship between fiberglass and recycled materials.
366	Mabie	Replies that fiberglass can be made from raw materials. Indicates that California requires 20 to 30 percent recycled content for fiberglass, but that most plants use a greater percentage due to profitability.
381	Sen. Fisher	Suggests that the demand for cullet by fiberglass manufacturers creates an even greater shortfall of recycled materials. Asserts that the state should put less effort into pushing recycling, as it is clear that the public has gotten the message.
387	Mabie	Mentions that the commingling that is about to occur in Portland is also taking place in many California cities. Asserts that the only way to continue the industrial use of cullet is to treat glass as a commodity, rather than as garbage. Says that the inclusion of porcelain and plate glass into glass loads has resulted in the destruction of furnaces.
417	Sen. Fisher	Wonders what effect porcelain has on the furnaces used by the industry.

421	Mabie	Explains that porcelain has a different melting point than glass, which forces manufacturers to burn at a much higher temperature, which eventually burns out the furnaces. Says that production must then be halted while the furnace is replaced.
		Additional testimony on SB 940 was submitted to the committee for the consideration of its members (EXHIBIT D).
TAPE 100, B		
007	Chair George	Closes the public hearing on SB 940 and opens a public hearing on SB 1212.
<u>SB 1212 PUBLIC HEARING</u>		
015	Brad Harper	Committee Administrator. Gives a brief description of the bill. States that it is currently legal to sell non-pasteurized milk from cows or goats. Explains that the bill would restrict the sale of non-pasteurized milk or dairy products in order to protect public safety from e-coli poisoning. Adds that there are currently no licensed producers of non-pasteurized cow milk in Oregon, while there is one licensed goat dairy doing so.
023	Dave Nelson	Representative, Oregon Dairy Farmers Association (ODFA). Testifies in support of SB 1212. Indicates that there are two amendments to the bill (EXHIBIT E). Says that the ñ1 amendments removes goat dairies and that the ODFA has no interest in addressing that problem. Says that the ñ2 amendments conform SB 1212 to SB 234.
040	Chair George	Asks if the ñ2 amendments eliminate the need for the ñ1 amendments.
042	Harper	Replies that the ñ2 amendments accomplish the same goal and also includes conforming changes to SB 234.
045	Don Moison	Dairy farmer, Keiser, Oregon. States that the industry has gotten bad press about contaminated raw milk and that dairy farmers are eager to put the issue behind them.
051	Peggy Kern	Marketing Director, Oregon Dairy Products Commission. Testifies in support of SB 1212 (EXHIBIT F). States that the availability of raw milk makes it impossible to assure consumers of a safe product. Indicates that major retailers such as Albertson's and Fred Meyer have not sold raw milk for nearly a decade. Recalls that the e-coli contamination that occurred during the 1980s within raw milk had a detrimental effect on the sale of all milk products at the time.
070	Peggy Paul	Director of Nutrition Education Services, Oregon Dairy Council. Testifies in support of SB 1212 (EXHIBIT G). States that all leading authorities suggest that pasteurized milk should be consumed instead of raw milk. Says that pasteurized milk is superior in nutrition quality, as it is required to have vitamin D added, while raw milk is not.

090	Paul Cieslak	Manager, Communicable Disease Program, Oregon Health Division. Testifies in support of SB 1212 (EXHIBIT H). States that doctors were aware of communicable diseases associated with raw milk as much as 100 years ago, though there are still occasional outbreaks. Mentions that the testimony contains documentation of several outbreaks, including an occasion where children who visited a dairy came down with a bacterial infection. Indicates that pasteurization raises the temperature of milk high enough to kill bacteria.
120	Sen. Wilde	Wonders if bacteria is present within the cow or if it comes in contact with milk after it leaves the cow.
124	Cieslak	Replies that both cases occur. Says that mastitis within the cow can be transmitted to consumers but asserts that fecal material that contaminates the teats is a bigger concern.
131	Sen. Fisher	Inquires as to whether Dr. Cieslak is involved in the investigation of hepatitis-C.
132	Cieslak	Replies that he is.
136	Sen. Fisher	Requests comparison between the number of cases of e-coli poisoning and hepatitis-c cases.
141	Cieslak	Replies that hepatitis-c affects as much as 2 percent of the population of Oregon, making it a much greater problem than e-coli.
144	Sen. Fisher	Indicates that he is "disturbed" by the amount of time spent studying e-coli that could be better spent on hepatitis-c research.
151	Cieslak	Explains that hepatitis-c is a complex issue, one which researchers have few ideas how to address. Mentions that the research on e-coli was performed in part to provide information in support of SB 1212.
165	Chuck Craig	Oregon Department of Agriculture. Testifies in support of SB 1212 (EXHIBIT I).
180	Floyd Bodyfelt	Professor Emeritus of Food Science, Oregon State University. Testifies in support of SB 1212. Mentions that Oregon is one of 12 states that still allow the sale of raw milk. Suggests revisions to the cheese section of the bill. Explains that there are differences in the moisture content of cheeses and that high moisture content cheeses should be regulated in accordance with the bill. Indicates that low moisture cheeses are less prone to disease transmission.
224	Chair George	Suggests that the changes be relayed to the house committee that is assigned the bill after it passes out of the Senate.
227	Bodyfelt	Notes that cheeses that are unsalted and have a moisture content above 39 percent are a matter of concern.

233	Sen. Fisher	Wonders if such cheeses could be made from pasteurized milk.
235	Bodyfelt	Replies that they could but that the "entire flavor profile" would be altered. Explains that there are alternative methods of disease prevention for such cheeses.
242	Sen. Fisher	Asks for clarification as to the types of cheeses that would be regulated.
246	Bodyfelt	Indicates that certain cheeses abide safety factors, due to the time of aging and the water content. Says that it is important that aging occur at a particular temperature. Notes that some cheeses, such as monterey jack, are currently made from pasteurized milk. Asserts that the bill should cover the concerns of cheeses so as to prevent the need for future legislation.
273	Chair George	Closes the public hearing on SB 1212 and opens a work session on SB 1212.
<u>SB 1212 WORK SESSION</u>		
279	Sen. Wilde	MOTION: Moves to ADOPT SB 1212-2 amendments dated 4/15/99.
	Chair George	Hearing no objection, declares the motion CARRIED.
285	Sen. Wilde	MOTION: Moves SB 1212 to the floor with a DO PASS AS AMENDED recommendation.
290		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Corcoran, Dukes, Shannon
	Chair George	The motion CARRIES. SEN. FERRIOLI will lead discussion on the floor.
293	Chair George	Closes the work session on SB 1212 and reopens the public hearing on SB 940.
<u>SB 940 PUBLIC HEARING</u>		

296	Bob Danko	Representative, DEQ. Testifies in opposition to SB 940. States that a compromise can be reached with the bill's proponents. Indicates the percentages would not apply if the cullet is not available. Suggests that the change in Portland's recycling policy will result in the unavailability of cullet.
335	Chair George	Wonders if there is any way to amend the bill to allow for the adjustment of the percentages in the event that other cities change their recycling policies.
355	Danko	Replies that the availability language in the law would address the problem. Says that Owens-Brockway has made the necessary investments to handle recycled glass, while their competitors have not, putting Owens-Brockway at a competitive disadvantage.
385	Chair George	Asks Mr. Danko to comment on the Ball-Foster plant in Seattle.
388	Danko	Replies that he has been to the plant and that they have a unique problem. Indicates that he has heard that other plants producing "dead leaf green" are able to handle higher percentages of recycled glass than Ball-Foster.
393	Chair George	Expresses concern that the industry could be adversely affected by the actions of the legislature.
400	Danko	Says that the bill would exempt Ball-Foster from minimum percentages, allowing the issue to be addressed at a later date.
410	Sen. Fisher	Wonders how much cullet is stockpiled.
415	Danko	Replies that Owens-Brockway used to stockpile green glass.
420	Sen. Fisher	Indicates that he is concerned with the availability of clear glass cullet for companies that may wish to enter the market.
TAPE 101, B		
010	Danko	Replies that more than half of all clear glass ends up in landfills.
014	Sen. Fisher	Expresses concern that Owens-Brockway is being made the "whipping boy." Says he is not convinced that it is worth the investment to recycle clear glass, given the cost and effort involved for both manufacturers and consumers. Suggests that clear glass could be mined from landfills in the future should it become valuable enough to do so. Argues that Owens-Brockway should not be penalized for the unwillingness of consumers to recycle clear glass. Says that he is frustrated by the inability of the industry to solve the problem on its own, despite assurances made in the past that it would be done.

050	Doug Myers	<p>Representative, Association of Oregon Recyclers (AOR). Testifies in opposition to SB 940 (EXHIBIT J). Indicates that AOR is willing to work with the proponents of the bill towards a compromise. Lists the reasons why AOR is opposed to the bill:</p> <ul style="list-style-type: none"> • The allowance for out-of-state glass needing to meet only the standards of the state of origin is unacceptable • The elimination of the 50 percent standard increase by 2000 • The exemption from meeting the 35 percent standard for plants where it is "technologically infeasible"
072	Sen. Fisher	Wonders why there are so many people opposed to the bill based on the assumption that it would be detrimental to Owens-Brockway, when Owens-Brockway has testified that it is supportive of the bill.
080	Myers	Replies that he cannot speak for Owens-Brockway.
084	Sen. Fisher	Disagrees with the opposition to the bill on behalf of Owens-Brockway when the company itself is not concerned with being able to compete with out of state producers.
098	Myers	Indicates that Owens-Brockway is a member of AOR. Indicates that the various members of the association may have differing attitudes but are willing to stand together for the good of the coalition.
108	Sen. Fisher	Suggests that California is concerned about the expense related to the environmental protection laws which it imposes, such as automobile emissions and that Oregon appears to be a "carbon copy" of its neighbor to the south. Asserts that he must be shown how the recycling of clear glass is beneficial while maintaining the viability of Oregon businesses.
136	Myers	States that AOR is proud of the successes that Owens-Brockway has made.
151	Chair George	Asks Mr. Myers for his opinion of the proposed changes by the City of Portland's curbside recycling program. Wonders if he is supportive of including the requirement that the city sort its glass within SB 940.
155	Myers	Indicates that AOR has not taken a position on the issue. Offers to relay the information from the hearing to the AOR board.
160	Chair George	States that if there are disputes between parties where there is the possibility that a compromise should be reached, the parties should work together towards a solution before the hearing takes place so as to bring the compromise to the committee in the form of amendments.
174	Sen. Fisher	Concurs with the chair. Asserts that the legislative process should be the last step.

Submitted By, Reviewed By,

Patrick Brennan, Brad Harper,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 813, testimony, John Wolz, 2 pp.

B ñ SB 940, testimony, Lev Anderson, 2 pp.

C ñ SB 940, testimony, Dean Marriott, 1 p.

D ñ SB 940, testimony, C. Marcele Daeges, 1 p.

E ñ SB 1212. ñ1 and ñ2 amendments, staff, 6 pp.

F ñ SB 1212, testimony, Peggy Kern, 1 p.

G ñ SB 1212, testimony, Peggy Paul, 2 pp.

H ñ SB 1212, testimony, Paul Cieslak, 16 pp.

I ñ SB 1212, testimony, Chuck Craig, 1 p.

J ñ SB 940, testimony, Doug Myers, 1 p.