

**SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS**

February 15, 1999 Hearing Room C

1:00 p.m. Tapes 36 - 38

**MEMBERS PRESENT:** Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

Sen. Randy Miller

Sen. Charles Starr

**MEMBER EXCUSED:**

**STAFF PRESENT:** Y. Sherry Sheng, Administrator

Nancy Masee, Administrative Support

**MEASURE/ISSUES HEARD:**

SB 286 Work Session

SB 281 Public Hearing

SB 287 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 36, A		
004	Chair Nelson	Opens meeting at 1:08 p.m. Opens work session on SB 286.

**SB 286 WORK SESSION**

006	Chair Nelson	States this bill was heard two weeks ago. SB 286 establishes authority of the Department of Consumer Business Services (DCBS) to investigate, take administrative action, and increase fines for violators of the law.
008	Sherry Sheng	Committee Administrator. Says there is a representative present from DCBS to answer questions. Explains that new information has been distributed to members.
040	Jim Harlan	DCBS, Deputy Administrator for the Division of Finance and Corporate Securities. Introduces David Tatman.
042	Chair Nelson	Asks if the revenue impact will be only \$60,000 per biennium.
047	David Tatman	Chief of Enforcement. Explains that the division intends to impose fines appropriate to the level of violation and in most cases it will be minimal. Says with large companies and egregious conduct, DCBS wants the authority to do this.
045	Chair Nelson	Asks why they should change the statute for such a minor increase.
047	Tatman	Explains that occasionally a large brokerage firm will have violated the statutes and the department needs authority to impose penalties.
054	Sen. Beyer	Asks if DCBS would have imposed large fines.
060	Tatman	Explains they have had companies pay up to \$100,000 for continuing violations. There are situations where companies are not cooperative through administrative hearings or the court and the department needs to have the authority.
075	Chair Nelson	<b>MOTION: Moves SB 286 to the floor with a DO PASS recommendation.</b>
076	Chair Nelson	<b>Hearing no objection, declares the motion CARRIED.</b> <b>VOTE: 4-0</b> <b>EXCUSED: 1 - Miller</b> <b>SEN. BEYER will lead discussion on the floor.</b>

**SB 281 PUBLIC HEARING**

078	Chair Nelson	Closes work session on SB 286 and opens public hearing on SB 281.
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085	Nancy Ellison	DCBS, Deputy Insurance Commissioner and Administrator of Insurance Division. Introduces Joel Ario, Manager of Consumer Protection Section. Supports SB 281. Explains how the bill protects work files more so than presently. SB 281 will protect examiner work paper confidentiality, similar to bank examiners' protection. States that the main reason this added protection is needed is that there are more multi-state company examinations being conducted. Provides a letter from the General Counsel of National Association of Insurance Commissioners (NAIC), indicating that most states that belong to NAIC have this type of protection and without it Oregon would be limited in participating in multi-state examinations. Presents <b>(EXHIBIT A)</b> .
142	Sen. Metsger	Asks if there have been negative consequences due to the present disclosure.
144	Ellison	Responds the department was unable to review sensitive documents from other states that were involved in the large multi-state sanction against a national company and there have been other cases where Oregon has not been able to guarantee confidentiality. Says there is also an increase in records' requests to the department. Emphasizes that the department needs more specific protection of records.
170	Chair Nelson	Says newspapers do not like limiting disclosure.
175	Ellison	Responds that the insurance division records are very open.
186	Lori Brocker	General Counsel, Oregon Newspaper Publishers Association. Asks if the harm that has been experienced is substantive enough to make this change. Asks why the protections provided by public records law are inadequate at present. Says confidentiality is already protected in many ways. Asks if supporting documents could not be used after the final report is issued. Asks, if more protection is necessary, if a clause can be added to take into consideration public interest. Presents <b>(EXHIBIT B)</b> .
225	Chair Nelson	Asks if there is specific language to be used.
243	Brocker	Responds with an example.
257	Chair Nelson	Asks who would determine what public interest would be sufficient.
261	Brocker	Answers, the way the statute is written, it would be the director.
265	Chair Nelson	Asks how many public disclosure laws are being challenged.
279	Brocker	Answers there are about 15 disclosure laws.
277	Sen. Metsger	Asks if this information is specific to the publishing industry.

288	Brocker	Answers reporters are who she works with.
297	Sen. Metsger	Asks if this litigation would make it more difficult for reporters to get information.
300	Brocker	Answers it would.
312	Joel Ario	DCBS. Consumer Protection. Responds that the answer to what happens to the documents when a company acts illegally is in Section 7 in current statute, which says the director may release documents when necessary in the furtherance of a judicial or administrative action. Explains further how information is made public.
367	Brocker	Explains that a concern is relying on subsection 7, "in the furtherance of any judicial or administrative action." Says that is specific action from a legal view.
380	Sen. Beyer	Asks if it said "The Director may disclose . . ."
384	Brocker	Says yes, it gives the director the option.
386	Chair Nelson	Asks for questions.
397	Sen. Beyer	Asks Ellison if the department would approve of striking the phrase discussed in Section 7.
399	Ellison	Says she will check.
401	Ario	Asks for time to check, so confidentiality agreements with other states can be signed.
406	Chair Nelson	Says he will check with Sen. Bryant's committee where other disclosure bills are being heard. Closes public hearing on SB 281. No work session will be held at this time. Opens public hearing on SB 287.
<b><u>SB 287 PUBLIC HEARING</u></b>		
<b>TAPE 37, A</b>		
049	Joe Brewer	Administrator, Building Codes Division. Gives background information on building permit fees. Supports SB 287. Explains the bill would allow the division to raise permit fees (the first raise since 1979) by 30 percent, plus a surcharge. Explains the agency's fiscal policy that requires their funds be maintained at a prudent balance. Discusses costs of rural areas and urban areas and how to defray higher costs in rural areas. Presents <b>(EXHIBIT C)</b> .

088	Chair Nelson	Asks about the raise in surcharge.
099	Brewer	Responds the Ways and Means Committee did question the surcharge with a result that the 2% surcharge in rural areas was omitted.
108	Chair Nelson	Asks about the state of Oregon's 2% charge on the chart.
112	Brewer	Explains if the 2% surcharge were not increased, the cost of a dwelling permit in the rural areas would be \$1,385, as compared to the city of Portland for the same size house which would be \$939, or \$699 in Washington County. Says the division needs to maintain a level of revenue required by the agency's fiscal policy. Explains that this particular account does not have the necessary revenue because they lacked the ability to raise the fees.
028	Sen. Nelson	Asks what the surcharge would be.
130	Sen. Metsger	Asks if the division is doing this because the municipalities have not developed their own building division.
138	Brewer	Responds yes, the state division serves the surrounding areas where the revenue is marginal and the cost of providing service is higher.
150	Sen. Metsger	Asks what the effect in obtaining inspections would be if there was no surcharge.
156	Brewer	Responds that the division's goal is to maintain a level of revenue sufficient to support their operations. Clarifies that if the division cannot generate the required revenue, the result would be in adjustments to staff level and service levels.
164	Sen. Beyer	Asks how the tri-county fees compare with the rural areas west of the mountains.
175	Brewer	Says he does not have those numbers. Says the division's current permit fees are the lowest in the state.
178	Sen. Metsger	Asks if the reason rural municipalities do not have building inspections is because the division's fees are low.
187	Brewer	Says, yes, some jurisdictions cannot compete. Raising fees may cause some jurisdictions to take on contract services.
200	Chair Nelson	Asks how much of state is served as a last resort.
204	Brewer	Responds the division serves about 55% of the land area, about 9% of the population, and collects about 2% of the revenue.

206	Chair Nelson	Asks if the division is self-regulation as a provider of last resort causes a problem.
208	Brewer	Says the division's program reviews and addresses local problems. Explains that the oversight program is based on each jurisdiction's particular needs and what works best for that area.
220	Chair Nelson	Asks for questions.
222	Alan Langendorf	President, Oregon Building Officials' Association. Neutral on SB 287. Suggests that it may be time for the Division of Building Codes to re-evaluate its role as a provider of services. Presents <b>(EXHIBIT D)</b> .
300	Hank McDonald	Building Official for city of Umatilla. Says he is a contract service provider. Speaks in favor of the fee increase but in opposition of the surcharge increase. Explains an example of how surcharge works.
<b>TAPE 38, A</b>		
007	McDonald	Continues explaining that Oregon is using codes that are 20 years old. Suggests ways of solving problems that include increasing electrical building fees and increasing surcharge. Discusses how competition and conflict are involved in the fee schedule. Believes there are creative ways, involving city and county boundaries, to serve the customer.
035	Chair Nelson	Asks for questions.
038	Bill Cross	Building Owners and Managers Association (BOMA). Supports passage of SB 287. Opposes the surcharge increase. Suggests a change in policy that would support fee services. Suggests that counties take over the program and only cities of certain size have a program for the sake of consistency and uniform fees. Presents <b>(EXHIBIT E)</b> .
050	Gary Wright	Representing Local 290, Plumbers and Pipefitters. Supports SB 287.
055	Sen. Metsger	Asks about SB 35 and the cost involved. Asks what the dollar figures are.
058	Langendorf	Explains that small jurisdictions were taking over inspections and did not have qualified inspectors nor follow any procedures. Says for those reasons SB 35 was instituted.
090	Chair Nelson	Thanks witnesses. Calls Don Miner.
093	Don Miner	Supports SB 287. Compliments the Building Codes Division for their efficiency. Explains that oversight by the division is important and that the increase in fees is needed. States there is concern with the emergency clause, that it needs an

		implementing period other than just immediate fee increases. Says contractors need time to adjust their fees (that they charge consumers).
143	Jane Cummins	League of Oregon Cities. Supports raising fees. Supports increasing surcharges for administrative services. Suggests reviewing the present situation and suggests the policies in place are outdated. Presents <b>(EXHIBIT F)</b> .
184	Cummins	Suggests moving the current surcharge to defray inspection costs to the administrative costs increasing the amounts of money for that. Suggests considering raising the permit fees to a level which supports their services and to maintain the current surcharge at 5% by designating the current 2% surcharge to administrative services.
234	Ralph Groener	American Federation of State, County, and Municipal Employees. Served on the SB 35 work group in past legislative sessions. States that a big part of the fee increase from SB 287 is to pay the salaries of 12.8 positions that would otherwise be lost.
301	McDonald	Responds to the issue that the contractors are the payers of the fees saying in fact the building owners and buyers are the payers of the fees. Says that the issue of salary is driven by certification.
325	Fred VanNatta	Oregon Building Industry Association. Gives background on the Oregon building codes from the 1970s. Says it is time to move on from the 1970 codes. Supports SB 287 and the statutory language. Supports the 2% increase. Does not support the emergency clause but at least a 90-day notice is appropriate. Discusses the jurisdictional problem which will be addressed in an another bill.
<b>TAPE 38, B</b>		
030	Bob Shiprack	Oregon Building and Construction Trades Council. Supports SB 287. Discusses the difficulty in passing fee bills.
077	Shiprack	Explains that without the passage of SB 287, there will be a loss of 12 positions. Discusses the need to keep inspectors and that the state of Oregon must have competitive salaries for their inspectors. Clarifies that to implement SB 35 (1997) which gives the state oversight responsibility, SB 287 needs to be implemented.
099	Chair Nelson	Closes public hearing on SB 287. Adjourns meeting at 2:57 p.m.

Submitted By, Reviewed By,

Nancy Massee, Y. Sherry Sheng,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 281, Written testimony, Nancy Ellison, 5 pp**

**B ñ SB 281, Written testimony, Lori Brocker, 1 p**

**C ñ SB 287, Written testimony, Joe Brewer, 3 pp**

**D ñ SB 287, Written testimony, Alan Langendorf, 4 pp**

**E ñ SB 287, Written testimony, Bill Cross, 1 p**

**F ñ SB 287, Written testimony, Jane Cummins, 1 p**