

SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS

February 8, 1999 Hearing Room C

1:00 p.m. Tapes 31 - 33

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 Massee, Administrative Support

MEASURE/ISSUES HEARD:

SB 136 Work Session

SB 137 Work Session

SB 142 Work Session

SB 143 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 31, A		
003	Chair Nelson	Opens meeting at 1:08 p.m.
014	Sen. Nelson	MOTION: Moves to RECONSIDER the vote by which SB 136 was
015		moved to the floor with a do pass recommendation. VOTE: 5-0
016	Chair Nelson	Hearing no objection, declares the motion CARRIED.

017	Chair Nelson	Opens work session on SB 136.
<u>SB 136 WORK SESSION</u>		
015	Chair Nelson	Asks if there are any questions on SB 136.
018	Sherry Sheng	Committee Administrator. Says members from the Cemetery Association are present to answer any questions on SB 136. Explains questions from Ashland regarding a fraudulent use of cemetery funds. Explains that the Secretary of State performs a perfunctory annual audit and that if a m
066	Sen. Beyer	Asks if the funds are in a trust account.
075	Andrew Aubertine	Oregon Department of Justice (DOJ), Assistant Attorney General (AAG). Financial Fraud Division.
080	Chair Nelson	Asks about the fraud case.
085	Aubertine	Says the issue is what happened to the monies in the trust fund. DOJ is working with Oregon State Mortuary Board to try to understand what hap
102	Sen. Metsger	Asks if there are sufficient safeguards in the statutes to protect the endowment funds.
109	Aubertine	States on its surface the bill seems to provide the necessary law enforcement capabilities to safeguard the endowment funds.
117	Sen. Beyer	Asks if the current law requires a third party trust separate from the owners of the cemetery.
123	Aubertine	Says if it is referred to an appointment of a receiver, then a third party will be handling the trust.
132	Sheng	Asks the Cemetery Association to describe the usual management of funds.
136	Ty Cochrane	President, Cemetery Association of Oregon. Says there is a third party trustee involved with endowment care funds. Says the Medford case invo
154	Chair Nelson	States this bill speaks to the endowment care funds. Asks how this is a good consumer protection bill.
174	Aubertine	Answers it will ensure good care of the cemeteries.
176	Sen. Beyer	Remarks that if there is not a protection, funding should not be added. Questions if the trust account is in jeopardy.
180	Ty Cochrane	Says the Secretary of State needs more funding to conduct more intense audits.
191	Sen. Metsger	Asks about the litigation. Asks if a trustee did not perform, or if there was a loophole that did not protect the funds.
194	Aubertine	Says that is what the DOJ is trying to figure out; who authorized the transfer of the monies. Says this is a pre-need trust fund problem with a nun
217	Sen. Beyer	Questions if the law is adequate. Asks if the trusts are audited as a part of the banking procedure.

234	Aubertine	States he can get that information for the committee. Asks if the trustees are audited on an annual basis as well as the custodians of the trust acco
238	Sen. Miller	Says it may be that the statute was violated. It may not be a part of the law. Questions the amount of five percent suggested in the bill.
258	Cochrane	Says the scale was based on an average of the (scale of the) states in the United States. The five percent refers to the gross selling price.
273	Sen. Miller	Asks if the amount put in the fund is generally about \$50.
276	Cochrane	Says it is probably less. Says ten percent was discussed by the association but was thought to be too high.
300	Sen. Beyer	Asks if the standard across the United States is a percentage.
302	Cochrane	Answers it is a percentage.
302	Sen. Nelson	MOTION: Moves SB 136 to the floor with a DO PASS recommendation.
307	Chair Nelson	VOTE: 5-0 Hearing no objection, declares the motion CARRIED.
		SEN. STARR will lead discussion on the floor.
308	Chair Nelson	Closes work session on SB 136. Opens work session on SB 137.
<u>SB 137 WORK SESSION</u>		
310	Aubertine	Explains the reasons for the ñ1 amendments. Presents (EXHIBIT A). <ul style="list-style-type: none"> • to recover attorneysí fees • to enable seeking a mandatory injunction
320	Chair Nelson	Asks if this relates to consumer protection.
322	Aubertine	Says it is consumer protection if the attorney general (AG) represents the consumer. Explains it could be construed as consumer protection, as it the law.
TAPE 32, A		
005	Sen. Miller	Asks, if the attorney general recovers the attorney fees, what happens to the attorney fees.
008	Aubertine	Answers that the attorneysí fees are returned to whoever receives the monthly billings from DOJ.
016	Chair Nelson	Asks if the Cemetery Association has comment.
020	Cochrane	Answers that the Cemetery Association agrees with the DOJ.
021	Chair Nelson	MOTION: Moves to ADOPT SB 137-1 amendments dated 1/29/99.

		VOTE: 5-0
022	Chair Nelson	Hearing no objection, declares the motion CARRIED .
023	Sen. Miller	MOTION: Moves SB 137 to the floor with a DO PASS AS AMENDED recommendation.
024		VOTE: 5-0
025	Chair Nelson	Hearing no objection, declares the motion CARRIED . SEN. MILLER will lead discussion on the floor.
026	Chair Nelson	Closes work session on SB 137. Opens work session SB 142 and SB 143.
<u>SB 142 AND SB 143 WORK SESSION</u>		
050	Sheng	Explains that there will be several individuals who did not get to speak at Friday's meeting who will testify today.
056	Penny Bewick	Electric Lightwave, Inc. (ELI). Opposes SB 142. States that ELI does not believe the regulation change is warranted at this time. Refers to the Public Utility Commission (PUC) is handling the deregulation appropriately. Presents (EXHIBIT B) .
100	Bewick	States ELI believes Oregon's current telecommunications policy is sound and ELI: <ul style="list-style-type: none"> • provides competitive phone service in six states • invested \$100 million in new infrastructure • continues projects throughout the state and area • continues sales promotions throughout the area States Oregon's current policy: <ul style="list-style-type: none"> • allows for entry by competitive providers • provides oversight of incumbent carriers • allows PUC to adjust regulatory oversight
150	Bewick	States that ELI filed litigation against US West in 1996. Questions whether US West would make the investment in rural Oregon that is asked for Oregon's needs. States that SB 143 in its current form would not be available to many companies. Suggests ELI would participate in a rural income
198	Chair Nelson	Asks if Bend has competition.
200	Bewick	Says, at the present, there may not be competition in Bend. Explains that partnering with another company should be attempted. Says some com
215	Sen. Nelson	Says the access problem is great.
219	Bewick	Agrees that certain areas of the state will never have enough people to make connection economically justifiable.
240	Sen. Beyer	Asks if there is a point of presence (POP) in Bend.
242	Bewick	Says if ELI could economically do that, they would.

265	Schelly Jensen	<p>General Telephone Exchange(GTE). Opposes SB 142. Gives background on GTE as LaGrande's local exchange carrier. Presents (EXHIBIT C)</p> <p>GTE's infrastructure in LaGrande has:</p> <ul style="list-style-type: none"> • all digital switches provided • fiber to connect switches • frame relay and ISDN service, and class services • advanced services provided within the LaGrande area • digital radio between LaGrande and Baker <p>Says GTE needs to partner to solve outer-area problems. Discusses points of presence, off ramps, and the state as an anchor tenant. Says all are e</p>
371	Jensen	<p>Suggests possible creative solutions such as:</p> <ul style="list-style-type: none"> • using economic development funds to bring in businesses • bringing in the Oregon Enterprise Network to create an anchor tenant • implementing tax incentives • implementing an infrastructure fund • promoting government funding programs <p>States that SB 142 would not be a long-term solution. Says SB 142 does not sufficiently address infrastructure. Says SB 142 lacks a flexible and universal service fund.</p>
387	Chair Nelson	Asks for an explanation of implicit and explicit charges.
TAPE 31, B		
006	Jensen	Responds that the historical ways of maintaining low local rates were through access charges, local toll rates, and higher business rates. Suggests universal service fund, or some other way, before any price capping occurs at an artificially low rate.
015	Chair Nelson	Asks for questions.
016	Sen. Metsger	Asks if points of presence were developed in off-ramps, where would the benefit to customers in rural Oregon be. Without market demand, wha
034	Jensen	Agrees that there is a problem of not knowing what the demand will be if the building of telecommunication accommodation occurs.
045	Sen. Metsger	Asks if competition is critical in taking advantage of infrastructure.
050	Jensen	Responds that GTE supports infrastructure incentives as competitively neutral.
054	Sen. Beyer	Asks about the cost of a switch.
056	Jensen	Responds that the cost would be \$200,000 to \$500,000 per year.
058	Sen. Beyer	Asks if GTE would be replacing the microwave system with a land line.
060	Jensen	Says that is what GTE would do, but they do not have the fiber.
080	Chair Nelson	States that Link Shadley in Astoria said their experience with creating more fiber, created more business.
090	Sen. Beyer	Says incentives are directed toward capital investments. Says an ongoing system still requires subsidizing.

104	Chair Nelson	Asks for comments.
110	Bruce Shaull	<p>SPRINT. Describes the local network including 80,000 customers in rural Oregon. States Sprint has all digital switching and provides frame relay. SB 142 needs balance and incumbent networks remain open to allow competition. Carrier to carrier agreements and standards must be maintained. ISDN service (broader band width that is faster) has not attracted as many customers, as yet. States ways Sprint believes will increase</p> <ul style="list-style-type: none"> • implementing a universal service fund • allowing competitors to draw from the universal service • managing rate reform, to keep local rates affordable • using economic development funds and incentives • implementing a specific policy regarding right-of-way
223	Chair Nelson	Discusses how Sykes Corporation had to aggregate demand from several businesses to enable entry into the system.
225	Sheng	Offers written information from Sykes.
236	Gary Bauer	Oregon Telecommunications Association. Discusses the state's role in implementation of rural fiber optics as needing policies set. Asks if the state has the requirements.
257	Joan Smith	PUC Commissioner. States that the Telecommunications Act has its third anniversary today. Says the doors of competition are slowly opening. States that shareholders are meant to benefit, that should be written into the bill. Asks the legislature to consider if SB 142 and SB 143 offer the same competition. Investing in infrastructure under an alternative form regulation and the second is the tax credit. Presents (EXHIBIT E) .
325	Smith	<p>States the PUC opposes SB 142, in its current form. Reasons for opposition are:</p> <ul style="list-style-type: none"> • the rate case being litigated between US West and PUC • the infrastructure development fund is not specific • the form of regulation is not agreed upon <p>Says action and solutions are needed.</p>
370	Smith	Emphasizes the need to work together. Describes the litigation between PUC and US West and says refunds would go to customers, not the general public.
TAPE 32, B		
007	Smith	Explains that the court's decision could affect SB 142 making it unconstitutional. Suggests the provision in SB 142 which says no state shall pass a law that guarantees improvement of rural infrastructure or more investment in infrastructure. SB 142 does not provide for spending funds outside the carrier's current investment. Currently investing enough money for either urban or rural basic service.
060	Smith	Suggests that rural investment include alternatives, tax credits, federal programs, and customer access charges. States there needs to be increased regulatory reform removes all accountability. Says prices would remain above cost and may cause predatory behavior by incumbents.
151	Smith	Explains the universal service fund as described in the bill
171	Sen. Beyer	Asks for an explanation.
174	Smith	Explains federal funding and other support. Says PUC does not know what the benchmarks are.
220	Sen. Beyer	Asks who has access to federal funds.
222	Smith	Explains federal funding is available to all incumbent carriers except two. US West and GTE serve high cost areas. At present, they do not qualify for federal funding.
239	Sen. Beyer	Asks if the definition of high cost area is related by federal communication commission (FCC) rules.
249	Smith	Describes high cost areas. Focus will be on subsidizing certain rural areas. Says the language in the bill needs to be changed.

260	Sen. Beyer	Asks if a state universal fund will supersede a federal universal service fund.
267	Smith	Says it will not. Explains the E-rate which collects money through interstate carriers to support schools, libraries, and rural health. Oregon Carrier Says SB 142 puts pricing in the hands of the legislature. Suggests that the law could be changed to specifically require improved rural infrastructure of universal access using alternative means.
311	Chair Nelson	Asks, of the 2.6 million lines, how many are residential. Asks about contract law being unconstitutional. Asks how the outcome of the case between
331	Smith	Responds 2 million of the wire lines are residential and 600,000 of the wireless phones are. Says she does not have a court case, but DOJ gave an
344	Sen. Metsger	Asks about charges that are an opportunity and who has access to this information.
367	Smith	Says rural medicine is a problem. Department of Education must give approval for clearing rates. States there are many different sources.
TAPE 33, A		
023	Sen. Miller	Asks for the rate case update. Asks about the unconstitutional issue and if he could have it Asks about the process of PUC opposing SB 142. Asks if it was a meeting of three comm
040	Chair Nelson	Explains the committee will need to decide what direction to go on Wednesday at the wo

Submitted By, Reviewed By,

Nancy Massee, Y. Sherry Sheng,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 137, -1 Amendments, Andrew Aubertine, 1 p

B ñ SB 142, Written testimony, Penny Bewick, 4 pp

C ñ SB 142, Written testimony, Schelly Jensen, 3 pp

D ñ SB 142, Written testimony, Bruce Shaull, 1 p

E ñ SB 142, Written testimony, Joan Smith, 7 pp

F ñ SB 142, Written testimony, Irv Smith (did not testify), 1 p