

SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS

April 9, 1999 Hearing Room C

1:00 PM Tapes 79 - 81

MEMBERS PRESENT: Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

MEMBER EXCUSED: Sen. Randy Miller

Sen. Charles Starr

STAFF PRESENT: Y. Sherry Sheng, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SJM 12 Public Hearing and Work Session

SB 411 Work Session

SB 281 Work Session

SB 451 Work Session

SB 398 Work Session

SB 512 Work Session

SB 842 Work Session

SB 577 Work Session

SB 1083 Public Hearing and Work Session

SB 1081 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 79, A		
006	Chair Nelson	Opens meeting at 1:07 PM. Opens public hearing on SJM 12.
<u>SJM 12 PUBLIC HEARING</u>		
015	Kristin Richert	Legislative Assistant to Rep. Bob Jensen, House District 57. Gives background on SJM 12 which urges congress to direct the

		U.S. Army to negotiate a memorandum of agreement with Morrow and Umatilla Counties to provide funding for the cost of an incinerator at Umatilla Chemical Depot. Presents (EXHIBIT A) .
064	Sen. Metsger	Explains the importance of SJM 12. Says that information needs to be conveyed to the public.
065	Chair Nelson	Closes public hearing on SJM 12. Opens work session on SJM 12.
<u>SJM 12 WORK SESSION</u>		
067	Chair NELSON:	MOTION: Moves SJM 12 be sent to the floor with a BE ADOPTED recommendation.
068		VOTE: 3-0 EXCUSED: 2 ñ Miller, Starr
069	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.
070	Chair Nelson	Closes work session on SJM 12. Opens work session on SB 411.
<u>SB 411 WORK SESSION</u>		
072	Sherry Sheng	Committee Administrator. Gives background on the previous public hearing on SB 411 which changes the name of the State Board of Massage Technicians to the State Board of Massage Therapists.
084	Chair Nelson	Asks for questions.
085	Sen. Nelson	MOTION: Moves SB 411 to the floor with a DO PASS recommendation.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
086	Chair Nelson	Hearing no objection, declares the motion CARRIED.

		SEN. METSGER will lead discussion on the floor.
090	Chair Nelson	Closes work session on SB 411. Opens work session on SB 281.
<u>SB 281 WORK SESSION</u>		
094	Sheng	Explains background on SB 281 and refers to previous public hearing. Explains the 11 amendments offered. Nancy Ellison is present to answer questions. The amendment is the agreement of both sides that meets the insurance division's policy. Presents (EXHIBIT B) .
114	Chair Nelson	Explains that this bill is similar to Sen. Bryantis.
125	Sen. Metsger	Comments that it is a concern that the public's right to know is growing smaller. However, he will support SB 281 because the parties came to agreement.
129	Sen. Beyer	MOTION: Moves to ADOPT SB 281-1 amendments dated 4/8/99.
130		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
131	Chair Nelson	Hearing no objection, declares the motion CARRIED .
132	Sen. Beyer	MOTION: Moves SB 281 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
133	Chair Nelson	Hearing no objection, declares the motion CARRIED . SEN. BEYER will lead discussion on the floor.
134	Chair Nelson	Closes work session on SB 281. Opens work session on SB 451.

<u>SB 451 WORK SESSION</u>		
140	Sheng	Gives background on public hearing of SB 451 which allows homeowners association to record association information with the county clerk. There was a need to amend the bill to fit the statutes. Presents (EXHIBIT C) .
159	Chair Nelson	Asks how to resolve where this fits in the statutes. Asks for comment on the ñ2 amendments.
188	Sheng	Comments that Legislative Counsel will fit them in the bill.
193	Chair Nelson	MOTION: Moves to ADOPT SB 451-2 amendments dated 4/7/99.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
194	Chair Nelson	Hearing no objection, declares the motion CARRIED.
195	Chair Nelson	MOTION: Moves SB 451 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
196	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.
197	Chair Nelson	Closes work session on SB 451. Opens work session on SB 398.
<u>SB 398 WORK SESSION</u>		
198	Sheng	Gives background on SB 398 which allows services to be performed under public contracts before there is a required review for legal sufficiency. Relates the public hearing questions which have been resolved by the ñ1 amendments which assure the contracting portions by Department of

		Administrative Services makes payments good. There is also an emergency clause included. Presents (EXHIBIT D) .
238	Sen. Beyer	MOTION: Moves to ADOPT SB 398-1 amendments dated 4/8/99.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
239	Chair Nelson	Hearing no objection, declares the motion CARRIED .
240	Sen. Beyer	MOTION: Moves SB 398 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
242	Chair Nelson	Hearing no objection, declares the motion CARRIED . SEN. BEYER will lead discussion on the floor.
244	Chair Nelson	Closes work session on SB 398. Opens work session on SB 512.
<u>SB 512 WORK SESSION</u>		
260	Chair Nelson	There are two amendments that have not been considered.
274	Sheng	Explains that SB 512 has had two public hearings. The committee had not considered the amendments previously. Presents (EXHIBIT E) .
286	Chair Nelson	Says the ñ1 and ñ2 amendments are at odds. Asks proponents of the amendments to testify.
294	Paul Phillips	Representing the task force. Says the League of Cities proposed the ñ1 amendments.
320	Jane Cummins	League of Oregon Cities. Refers to the ñ1 amendments. Explains the amendments by

		the cities. Board would be locally created by jurisdictions, not staffed by Building Codes Division (BCD). Under local government proposals, a fee schedule would be established. Says the amendments will achieve the same goals, but with much less cost and without intruding into local control. Presents (EXHIBIT F) .
373	Phillips	Says the task force amendments have arrived at a philosophy different from the ñ1 amendments. Intergovernmental agreements are a complete deviation as seen by the task force. Comments that he is glad the League sees problems and is willing to work on them.
440	Sen. Beyer	Asks if the adopted rules are accepted by the director of the Department of Consumer and Business Services (DCBS).
TAPE 80, A		
004	Joe Brewer	Director of Building Codes Division. Explains on page 4, line 3 after board, it says "with the approval of the director" in the ñ2 amendments.
018	Chair Nelson	Asks for questions.
020	Sen. Metsger	Asks if members withdraw from the intergovernmental agreement, can DCBS terminate the building inspection program according to Section 8.
028	Brewer	Says he does not know what jurisdictions will do. DCBS has never revoked a program that he knows of. There is no clean way to revoke a program.
036	Cummins.	Explains a smaller jurisdiction that gives up their program, would revert to the county.
047	Brewer	Says he cannot guarantee that a county would pick up a program.
050	Phillips	Comments that if intergovernmental agreements are used, there is a question of where jurisdictions who do not join, or who drop out, will go. Says the best functioning board is one that is centralized and uses standard language.
078	Cummins	Explains that 24 cities in the tri-county area support joining the intergovernmental agreements concept. Washington and Clackamas counties have programs.
094	Phillips	Says the process needs to be cleaned up and move forward. Intergovernmental agreements do not guarantee that will happen.

108	Sen. Beyer	Refers to page 3, which says DCBS will provide support for the service center.
115	Brewer	Says he does not know of anything that would prevent intergovernmental agreements. Explains rotating staff through the service center, using staff from the jurisdictions, was proposed.
129	Sen. Beyer	Asks if this bill would preclude local governments from forming their own intergovernmental agreements.
137	Brewer	Says he is not aware of anything that would preclude that.
148	Sen. Beyer	Asks about the new board creating advisory and technical committees.
150	Brewer	Would hope that the jurisdictions would supply the resources.
155	Sen. Beyer	Says this does not take away local authority to operate their systems.
154	Chair Nelson	Asks for questions.
161	Sen. Metsger	MOTION: Moves to ADOPT SB 512-1 amendments dated 3/18/99.
162		VOTE: 1-2 AYE: 1 - Metsger NAY: 2 - Beyer, Nelson EXCUSED: 2 - Miller, Starr
163	Chair Nelson	The motion FAILS.
164	Sen. Metsger	Explains that it is clear there is a problem that needs resolving. He feels sympathetic about the differences. He is concerned about adding another layer of government, increasing costs, and the minor label program. Says he believes in the intergovernmental agreement approach.
190	Sen. Beyer	Says this is a pilot plan for the metro area. Says he hopes it could solve some of the problems. Feels SB 512 should keep up momentum for change. Believes that building codes are a state decision, not a local one. Opposes the fl amendments.
210	Sen. Beyer	MOTION: Moves to ADOPT SB 512-2

		amendments dated 3/18/99.
		VOTE: 3-0 AYE: 3 n Beyer, Metsger, Nelson EXCUSED: 2 n Miller, Starr
211	Chair Nelson	The motion CARRIES.
212	Sen. Beyer	MOTION: Moves SB 512 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: 3 n Beyer, Metsger, Nelson Excused: Miller, Starr
213	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
214	Sen. Metsger	Explains that he will vote aye in order for the bill to go to the floor, because the two absent committee members had expressed their opinions that they would vote aye. However, he will vote nay on the floor as explained above.
260	Sheng	Discusses the 1.5 percent surcharge on permit fees that the Building Code Division suggested. It is not reflected in the bill. Discusses the 1 percent surcharge for training fees now in existence. The board would be able to adopt fees through rules. This bill has a significant fiscal impact.
326	Sen. Beyer	Asks if the 1.5 percent is what they have agreed to.
329	Brewer	Says the blank was filled yesterday as 1.5 percent. The intent was to fund to a level where it could sustain itself.
346	Sen. Beyer	Asks Mr. Phillips if this is what the industry wants.
350	Phillips	Says the 1.5 percent is what should be inserted in the bill.
349	Sen. Beyer	Asks if that is what his group wants. Says

		he is concerned with that amount.
358	Phillips	Says specific amounts have been desired rather than to give blanket jurisdiction to a group.
385	Chair Nelson	Says the 1.5 percent needs to be entered in the bill.
386	Sen. Beyer	MOTION: Moves to AMEND SB 512 on page 25, in line 26, strike "of" and insert "not to exceed 1.5 percent".
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
389	Chair Nelson	Hearing no objection, declares the motion CARRIED.
391	Sen. Beyer	MOTION: Moves SB 512 to the floor with a DO PASS AS AMENDED recommendation.
392		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
393	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
394	Chair Nelson	Closes work session on SB 512. Opens work session on SB 842.
<u>SB 842 WORK SESSION</u>		
440	Sheng	Explains that SB 842 creates limited insurance license for car rental companies and was created by the Judiciary Committee. The chairs have concurred to refer SB 842 to the Judiciary Committee.
TAPE 79,B		
020	Sen. Beyer	MOTION: Moves SB 842 to the floor

		WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Judiciary.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
022	Chair Nelson	Hearing no objection, declares the motion CARRIED.
023	Chair Nelson	Closes work session on SB 842. Opens work session on SB 577.
<u>SB 577 WORK SESSION</u>		
030	Sheng	Gives background on former work session on SB 577 which was moved to the floor as amended with recommendation of do pass. A referral to Ways and Means was recommended when the bill was assigned to this committee. The committee needs to reconsider SB 577 and rescind the prior referral to Ways and Means because there is no fiscal impact. Presents (EXHIBIT G) .
053	Sen. Beyer	MOTION: Moves to RECONSIDER the vote by which "SB 577 was moved to the floor with a do pass as amended recommendation".
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
054	Chair Nelson	Hearing no objection, declares the motion CARRIED.
055	Sen. Beyer	MOTION: Moves SB 577 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr

056	Chair Nelson	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. METSGER will lead discussion on the floor.</p>
057	Chair Nelson	Closes work session on SB 577. Opens public hearing on SB 1083.
<u>SB 1083 PUBLIC HEARING</u>		
079	Mike Grainey	Assistant Director, Office of Energy. Supports SB 1083 that allows expansion of site certificate rather than new site certificate from Energy Facility Siting Council. The siting council is a seven-member citizens panel. The council makes decisions for siting large energy facilities. Office of Energy does the technical staffing. Introduces David Stewart-Smith. SB 1083 clarifies what has been the practice of the council.
130	Chair Nelson	Asks for questions.
135	David Stewart-Smith	Technical resource for siting council.
135	Sen. Beyer	Asks if this clarifies what has been the practice.
138	Grainey	Says the law has a conflict with associated facilities, small pipelines, and supporting facilities.
153	Stewart-Smith	Explains how the technology of testing is determined.
155	Chair Nelson	Asks for questions.
193	Tom Berry	Northwest Natural Gas Company (NWNNG). Introduces Carla Kelley and Margaret Kirkpatrick.
195	Carla Kelley	Deputy Counsel, Northwest Natural Gas Company. Supports SB 1083. Says the bill is necessary to make the NWNNG facility fit under one statute.
220	Margaret Kirkpatrick	Attorney. Stoel, Rives, Et al. Says Grainey has covered the points of the bill well.
224	Chair Nelson	Asks for questions. Closes public hearing on SB 1083. Opens work session on SB 1083.
<u>SB 1083 WORK SESSION</u>		

224	Chair Nelson	MOTION: Moves SB 1083 to the floor with a DO PASS recommendation.
		VOTE: 3-0 EXCUSED: 2 - Miller, Starr
225	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.
226	Chair Nelson	Closes work session on SB 1083. Opens public hearing on SB 1081.
<u>SB 1081 PUBLIC HEARING</u>		
242	Grover Simmons	Represents the Independent Employer Association and Pacific Training and Imaging Association. Explains the associations have been working on the problem of electrical inspectors red tagging and halting installation of industrial equipment in manufacturing plants in the Portland area. Local inspectors have been halting the use of machinery if it does not have an underwriters laboratory (UL) label on it. This extracts large sums of money in the form of fees from business and industry. Until recently the national code was not used to keep new machinery from entry. SB 1081 is a consensus bill to strengthen a statewide special program to correct this problem. The cost borne by those who want industrial equipment inspected is unconscionable. Says the program in Los Angeles is to be used as a model for Oregon. Says industry and government approve of this bill. Says next session can review it, if this is not satisfactory. Presents (EXHIBIT H) .
362	Chair Nelson	Asks for questions.
364	Sen. Beyer	Asks about the difficulty in small cities that cannot offer a full service program. Asks who are the special deputy inspectors.
374	Simmons	Says the special deputy inspectors program is on the books. Portland says they do not have funds. Small communities would be able to use this program.
390	Sen. Beyer	Asks if this is like the elevator program where a third party is present.
400	Joe Brewer	Building Codes Division (BCD). Says that SB 1081 will make special deputy

		inspections mandatory. Explains some of the costs were not fees, but extra costs to modify equipment for safety. Presents (EXHIBIT I) .
TAPE 80, B		
011	Gary Wilson	Chief Electrical Inspector, BCD. Says he is technical support for Brewer. Presents (EXHIBIT J) .
014	Sen. Beyer	Asks how the special deputy program works.
015	Brewer	Presents the city of Eugene as an example where equipment used is not listed. First one would call the jurisdiction for inspection to be carried out.
025	Sen. Beyer	Asks if one is required to have the equipment inspected if it is not listed.
030	Brewer	State law and federal OSHA require it to be listed. The alternative is to have it field evaluated.
034	Wilson	Describes the standards established from which safety developments are listed. Federal labor law says it needs to be listed by a national testing laboratory. This program is set up to have products where there are no standards to be inspected to see if they comply with the minimum standards.
051	Sen. Beyer	Asks if the jurisdictions that have assumed electrical responsibilities are capable of doing this.
054	Wilson	Answers they have a level of inspectors.
055	Brewer	They have the option of providing the service or of contracting with a firm or contracting with a listing laboratory.
060	Sen. Beyer	Asks if local governments are agreeable to this program.
063	Brewer	Says he does not know the cities' position on this bill.
070	Chair Nelson	Asks how many levels of inspectors there are.
072	Wilson	Replies there are two classes of inspectors in Oregon, the lower class is for one and two family dwellings, then "A" level certifications are for inspectors of all facilities and buildings.

080	Chair Nelson	Asks for questions.
082	Jeff Weil	Plant Engineering Manager. Graphic Arts Center. Supports SB 1081. Says it is needed.
104	Chair Nelson	Asks for questions.
106	Sen. Metsger	Asks about the cost of \$15,000 for installation of equipment.
108	Weil	Answers that there was a blanket red tag put on the new equipment requiring a full inspection at the cost of \$15,000. There were initial fusing problems identified before the inspection.
113	John Gervais	National Electrical Contractors Association. Supports SB 1081. Hopes the use of special deputies will cut costs and cut time.
124	Weil	Says some jurisdictions are better than others for consistencies in electrical inspections and in other construction areas. Supports the state in the goal of consistency.
133	Gervais	Says the inconsistencies have been the reason for these bills.
141	Eugene Morgan	Electrical Inspector. Clackamas County. Discusses the process of determining safety. Describes the special deputy inspection program. Describes a proliferation of equipment manufactured out of the country and says that field inspectors do not have enough information to assess foreign-made equipment.
196	Morgan	Comments there is a problem that needs fixing but the revisions do not have sufficient impact to make this workable. Opposes SB 1081. Says the jurisdictions have not had an opportunity to examine how SB 1081 would affect them. Explains the problems in inspecting foreign equipment are due to lack of information.
259	Chair Nelson	Asks if he believes there should be further study of this bill.
260	Morgan	Says there needs to be further distinction in inspecting. ORS 479 is a problem statute.
274	Chair Nelson	Asks for questions.
278	Sen. Beyer	Says he reads the bill to say that "contractual arrangements with a lab when the situation arose, and the cost would be recoverable from the permittee."

274	Morgan	Says he does not see language that discusses subcontracting.
278	Sen. Beyer	Says the bill does not preclude cities from contracting third parties to contract the work.
302	Sen. Metsger	Says it seems they could authorize anyone who meets the definition of a special deputy. Asks if the concern would be broad enough language to cover foreign equipment.
319	Morgan	Says this is requiring the individual inspector to make inspections without training and without resources.
337	Gervais	Agrees with Morgan in part. Cities and counties pass off inspections too readily to third parties and it gets too expensive.
359	Brewer	Says the bill may not be the best solution, but in trying to solve the problem, each jurisdiction should have someone who is qualified and trained to evaluate equipment safety.
389	Sen. Beyer	Asks if the jurisdictions can provide field inspections through an outside third party.
398	Brewer	Answers that is not precluded, but the hope is that it would be handled in a more cost effective way than in the past.
TAPE 81, A		
004	Sen. Beyer	Comments that in some places it would be more possible if a third party was hired.
010	Brewer	Suggests that special deputy inspectors be used, or contracting with a testing laboratory be utilized.
022	Chair Nelson	Says this bill will need some more work. Adjourns meeting at 3:00 PM.

Submitted By, Reviewed By,

Nancy Massee, Y. Sherry Sheng,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SJM 12, Written testimony, Kristen Richert, 2 pp

B ñ SB 281, -1 Amendment, Staff, 1 p

C ñ SB 451, -2 Amendment and letter, Staff, 3 pp

D ñ SB 398, -1 Amendment, Staff, 4 pp

E ñ SB 512, Amendments and letter, Staff, 10 pp

F ñ SB 512, Written testimony, Jane Cummins, 44 pp

G ñ SB 577, -1 Amendment, Staff, 1 p

H ñ SB 1081, Amendment and Written testimony, Grover Simmons, 4 pp

I - SB 1081, Written testimony, Joe Brewer, 1 p

J - SB 1081, Written testimony, Gary Wilson, 1 p