

SENATE COMMITTEE ON PUBLIC AFFAIRS

March 24, 1999 Hearing Room B

7:00 p.m. Tapes 24 - 25

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Eileen Qutub

Sen. Charles Starr

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Joan Dukes, Vice-Chair

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 654 Public Hearing and Work Session

SB 1149 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 24, A		
000	Chair Derfler	Opens meeting at 7:00 p.m. and opens public hearing on SB 654.
<u>SB 654 PUBLIC HEARING</u>		
011	Mark Gibson	Governor's Policy Advisor, Healthcare, Human Services and Labor. Supports SB 654. States SB 654 is meant to address the administrative difficulties at the Workers' Compensation Board (WCB). States the administrative framework that was statutorily constructed for the WCB was flawed. States that management decisions for the agency are made by a board of five equal members who elect a chair. States SB 654 takes the fundamental step of making the public member of the board the administrative officer of the board. States one person will have the responsibility and authority to handle the administrative affairs of the board.

		States the Governor supports the ñ2 amendments to SB 654. States the amendments allow the board chair to delegate administrative responsibility.
053	Chair Derfler	Clarifies the need for delegation should the board chair want to take a vacation.
055	Gibson	States he is correct and SB 654 will allow the board chair to hire an administrator to assist in these functions. Explains the amendments clarify the judicial independence of the board. States the Governor cannot utilize power to influence the board. States there are deletions to SB 654 that do not relieve the chair of his/her duties in deciding cases. States the administrative capacity is additive and not exclusive of those responsibilities of the chair. Explains the dismissal of Administrative Law Judges (ALJ), in the hearings division of the board, can only be done by the Employment Relations Board (ERB). States the language creates the same dismissal standards for the ALJs that work for the WCB as it does for ALJs in other agencies. States the rest of the amendments are for housekeeping purposes.
100	Maureen Bock	Chair, Workersí Compensation Board. Presents (EXHIBIT A). Supports SB 654 because it fosters the boardís accountability, efficiency, and effectiveness. States the board members weigh in on administrative matters and serve a judicial function of reviewing appeals from the hearings division. States in 1999 the board empowered the chair to enact the administrative function.
119	Lisa Trussell	Associated Oregon Industries (AOI). Supports SB 654.
122	Sen. Qutub	Asks if all who have testified support the ñ2 amendments.
123	Trussell	States she supports the ñ2 amendments.
128	Jennifer Webber	Oregon Workersí Compensation Attorneys. Explains that she is concerned with the dismissal of the ALJs, by the board chair, under the ñ2 amendments. States that the ALJs are unique in the WCB and should not have their dismissal standardized like other departments. States ALJs are meant to replace a jury trial as a disinterested party in these cases. States in other divisions, for the case being appealed, the department is a party to that case. States, in the workersí compensation process, the department is not a party to the case. States that if an ALJís decisions are to be politicized by a board chair, the ALJís independence is not being insulated from adequately making these judicial decisions.
178	Webber	States if she had known about the ñ2 amendments she would have discussed these changes with the Governorís office. Asks the committee not to pass SB 654 with the ñ2 amendments. Encourages the committee to speak with the Workersí Compensation section of the Oregon State Bar for their thoughts on this.
189	Chair Derfler	States SB 654, with the ñ2 amendments, will probably pass and she might want to discuss changes once it reaches the House.
191	Webber	States she spoke with Rep. Mannix about the issue.

193	Chair Derfler	Closes public hearing and opens work session.
<u>SB 654 WORK SESSION</u>		
194	Sen. Starr	MOTION: Moves TO ADOPT SB 654 ñ2 amendments dated 3/24/99.
	Chair Derfler	Hearing no objection, declares the motion CARRIED.
196	Sen. Qutub	MOTION: Moves SB 654 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Dukes, Wilde
	Chair Derfler	The motion CARRIES. SEN. DERFLER will lead discussion on the floor.
205	Chair Derfler	Closes work session and opens public hearing on SB 1149.
<u>SB 1149 PUBLIC HEARING</u>		
213	Bill Warren	Director, Public Utilities Commission (PUC). Presents (EXHIBIT B) . States the ñ3 amendments have incorporated many of the suggestions made by the PUC for SB 1149.
235	Andrea Henderson	Senate Majority Office. States that Legislative Counsel was given several different sets of amendments. States there are some drafting problems due to the number of amendments submitted, but believe all the technical issues of the PUC are addressed in the ñ3 amendments.
243	Warren	States the PUC has been working with various parties to gain an understanding of their issues.
259	Sen. Starr	States he needs reassurance about retaining benefits of low cost resources.

265	Warren	States that issue is important to the commission. States the PUC, in the UE 102, is proceeding for PGE. States the PUC did not permit divestiture or sale of those assets but, rather, to retain them, and is attempting to spread the benefits of the low cost resources to all consumers on PGE's system. Believes SB 1149 should reflect an initial policy that resources indigenous to Oregon be retained.
287	Diane Cowan	Executive Director, Oregon Peoples' Utility District Association. States her association has a few issues with the SB 1149's amendments and those issues will be addressed by Sandy Flicker and Tom O'Connor.
300	Sandy Flicker	General Manager, Oregon Rural Electric Cooperative Association (ORECA). States concern that there is no language in SB 1149 that removes the consumer-owned utilities from Sections 2 through 20. States the section of amendments submitted, regarding obligation to serve customers, has been removed and asks to have SB 1149 restore that section. States the definition of a distribution utility currently is referred to as an entity. States "electric utility" would specify the legislature's intention better than "entity." States there appears to be a drafting error: in Section 25, it refers to Sections 1 through 20, but it should refer to Sections 23 and 24.
347	Sen. Qutub	Asks Flicker to clarify the referred sections.
350	Flicker	Clarifies the amendment should refer to Sections 23 and 24. States it creates a situation where it only applies to the amended language ORECA had submitted.
364	Tom O'Connor	Director, Oregon Municipal Electric Utilities. States there are other amendment sections that were drafted with old language. States the section dealing with municipal utility in lieu of tax payments is language from an older version of amendments. States the section dealing with the net billing agreements with BPA does not reflect the current agreement among the consumer-owned utilities.
389	Flicker	States she had quickly looked through the's amendments and would like to work with staff to determine whether the problems were intentional or drafting errors.
414	Jason Eisdorfer	Attorney, Citizens' Utility Board (CUB). States CUB has worked with Andrea Henderson to make sure the language, in the amendments before the committee, is correct.
450	Rachel Shimshak	Director, Renewable Northwest Project. States concern with the's amendments, dealing with public purposes, relating to the consumer-owned utilities. States the electricity fund for public purposes can be at risk in a deregulated system. States they are interested in making sure public purposes are addressed in a complimentary way to a competitive system. Explains they would like to see these expenses overcome barriers for conservation and renewables.
TAPE 25, A		
144	Shimshak	States there needs to be an infrastructure to deliver both conservation and

		<p>renewables and it needs to be maintained throughout the transition period. States renewables benefit the energy system. States in 1996, when BPA was in financial trouble, many met through the regional review and tried to identify a system to financially secure BPA. States BPA has invested heavily in conservation and renewables. Explains that BPA was working toward reducing spending on conservation and renewables and having the states pick up that cost. States the PUC language for IOUs is inconsistent with how they would implement their public purposes. States there are different standards for COU territories and IOU territories. States the COU language appears to only collect three percent of electricity revenues as opposed to the revenues of total electricity services. States there is nothing in the language to suggest these investments are supposed to be "new" investments which is the intention of where the money is to be directed.</p>
194	Shimshak	<p>States they are trying to target above market cost for the renewables. States there is no language in SB 1149 reflecting how the money will be allocated for public purposes. States that bill assistance for the IOUs is outside the three percent, but for the COUs it is contained within the three percent. States there needs to be consistent accountability across all the utility territories. States SB 1149 allows allocating money to certain resources, such as existing co-generation, waste energy plants, landfill gas, and an existing hydro-project, as opposed to directing the money to new resources. Supports a public purposes section that collects the full three percent of total electricity service revenues and new resource investment.</p>
218	Chair Derfler	<p>Reiterates that Shimshak is not satisfied with the public purposes section as written.</p>
219	Shimshak	<p>States she is not.</p>
222	Gary Conkling	<p>Industrial Customers of Northwest Utilities. States the customer-owned utilities provisions in SB 1149 do represent competitive imbalance with the rest of Oregon.</p>
242	Eisdorfer	<p>States the current language does not reflect retail access pertaining to residential customers. States the low income language previously discussed is not included in the amendments.</p>
266	Steve Weiss	<p>Northwest Energy Coalition. States the coalition represents all consumer types. States the ñ3 amendments are conceptually in agreement, but a few changes are needed for the language.</p>
306	Weiss	<p>States the direct service industry customers (DSIs) are not specifically in anyoneís territory and currently have direct access to BPA. Supports disclosure in billing so that customers can choose green power. States the PUC should have the authority to create bar charts or graphs to place into marketing materials. States there are problems with how the consumer-owned utilities are treated. States consumer-owned utilities who want to be in the marketplace should not be given their own set of rules for each of these utilities. States that once the public utility becomes a marketer it is imperative to have consistent standardized rules, including public purposes.</p>

388	Chair Derfler	Asks if the public utilities would have incentive to become a marketer if standardized rules were in place.
393	Weiss	States that if a utility wants access to a market, the consumer boards will respond. States that once a utility, or class of utility, has decided to enter into the market, they need to follow the rules of every marketer to keep a level playing field.
TAPE 24, B		
006	Tom Gallagher	Pacific Gas and Electric Energy Suppliers. States they will continue to meet with the PUC to finalize language in developing a market for consumers.
019	Chair Derfler	States the differences need to be worked out by Monday, March 29, 1999.
025	Gallagher	States the framework for SB 1149 has been made to protect the public interest.
030	Chair Derfler	States that changing the monopoly system to a market system is not easy and takes time. States SB 1149 will be moved out quickly.
038	Cindy Finlayson	Portland General Electric. Presents (EXHIBIT C) . States PGE would like the direct access date extended to October 1, 2001. States PGE concurs with the PUC amendments concerning the portfolio language. States that PGE acts as a conduit in the BPA subscription process and she has amendments that would clarify the residential exchange process to a subscription process.
070	Terry Flores	Pacificorp. Presents (EXHIBIT D) . Opposes the present language of SB 1149. Concerned that there has not been enough discussion on the deregulation issue. States Pacificorp has not been involved in all of the discussions. States the public utilities will have the ability to voluntarily move to direct access under terms and conditions that they set. States PGE will be able to voluntarily accept its UE 102 order from the commission. States Pacificorp will need to move to direct access by 2001, limiting their ability to voluntarily accept a negotiated process with the PUC. Supports customer choice and proposes amendments. States direct access should be extended to all retail customers in Oregon.
120	Flores	States Pacificorp opposes a PUC administrative proceeding to determine stranded costs and benefits. States the most accurate way to determine stranded costs is to sell the generation assets. States Pacificorp, as a multi-state utility, will have difficulty determining the stranded costs or benefits, or how to sell their assets. States an agreement needs to be reached among the six state commissions to sell their assets, as well as figure out how to allocate those assets throughout the six states. States Pacificorp suggests the issues for stranded costs be set aside until assets are sold. States once the assets are sold, then it can be determined how the costs and benefits are shared between customers and shareholders.
152	Chair Derfler	Asks how many years it would take to resolve this issue.

153	Flores	Explains that the generation will be continued until an agreement is reached in Pacificorp's states, but it may take several years.
159	Chair Derfler	Asks what stops Pacificorp from selling off their assets now.
160	Flores	Explains that a number of states are not looking to restructure. States there are other stranded costs relating to regulatory assets: contracts above market, preferred taxes, and investments in conservation. States these costs can be recovered from customers, through a charge on the delivery system that would be determined in a PUC proceeding. States the need to eliminate subsidies that currently exist between customer classes. States there will be implementation costs for new billing and metering systems. States if Pacificorp is mandated to purchase BPA power, those costs will need to be recovered. States the systems benefit charge would be more appropriate with a five year time frame. States concern with moving to a volumetric approach to determine franchise fees.
202	Chair Derfler	States there are still issues that need to be resolved concerning franchise fees.
211	Sen. Qutub	Asks to clarify if the public utilities would be included in requirements to extend customer choice to all Oregon retailers. Asks if she participated in last session's discussions on deregulation.
221	Flores	States the public utilities should have the same requirements. States she did not personally participate in last session's discussions, but Pacificorp was represented.
224	Sen. Qutub	States she was not part of those discussions, but the time spent discussing deregulation has been extensive.
239	Libby Henry	Eugene Water & Electric Board (EWEB). States Deason will address the consumer-owned issues they have with SB 1149.
250	Jim Deason	Attorney, EWEB. States there needs to be a provision added to specifically remove consumer-owned utilities from Sections 1 to 20 of SB 1149. States, in Section 25, exclusive distribution rights need to be maintained for access to the generation commodity. States the "3 amendments concerning contribution in lieu of tax payments reflect old language. States subsection 2 of Section 28 should be stricken. States Section 25 needs to clarify EWEB's retail electric customers are those who are being serviced as of July 1999.
300	Deason	States, when deregulation occurs, they need to ensure their stranded costs incurred can be recovered from customers who change service providers.
315	Henry	States EWEB does not support the public purposes language in SB 1149. States rolling low income as an expenditure into public purposes, along with weatherization and renewables investment, is not appropriate. States the public purposes section gives the publicly-owned utility the ability to spend the three percent in any fashion. States it is unfair and needs to be a standard applied to all customers equally. States SB 1149 covers all the vital issues.

352	Chair Derfler	States there is disagreement among the public utilities. States SB 1149 will be passed out next week.
367	Henry	States they would be happy to participate with the PUC in finding agreement on the public purposes issue.
368	Chair Derfler	States any interested parties should be included in that discussion.
387	Larry Campbell	Ogden Energy Group. Presents (EXHIBIT E) . Supports SB 1149 with the updated amendments.
408	Doug Riggs	International Brotherhood of Electrical Workers (IBEW). Presents (EXHIBIT F) . Supports the PUC's authority in implementing SB 1149. Supports the portfolio approach and keeping public purposes at three percent.
TAPE 25, B		
038	Riggs	States concern with BPA preference power being sacrificed if Oregon moves to a direct market. States that worker safety is an issue. States that during the transition, other states have experienced safety and reliability problems, and worker layoffs that should not take place in Oregon. Suggests keeping the trained work forces up to speed. Concerned with proposals to unbundle metering and repairs. States training for reading meters is complicated. Asks the PUC to delay the unbundling process in relation to metering. States concern with cross subsidization that may impact small local contractors.
088	Riggs	States they have proposed language for the PUC to set specific standards so there is no issue in accounting or separation. States there needs to be a review from the PUC for feedback of the portfolio model. States there needs to be a definition of what is a residential, industrial, or commercial customer.
106	Ronald Jones	Business Manager, International Brotherhood of Electrical Workers. Presents (EXHIBIT G) . States there are approximately 300,000 customers in the utilities he represents. States he is a journeyman lineman who has been in the industry for 30 years. States the worker's perspective about deregulation concerns safety and reliability in the system. Explains that deregulation will drive economic decisions by the utilities to look at or implement early retirement provisions, downsizing for a new competitive market.
156	Jones	States that training budgets are being depleted and there is a shortage of trained linemen needed to support the industry. States there is a trend showing applicants across the nation are less qualified and experienced than applicants on the open market. States training is not being done on the level needed to maintain reliability of the system and the safety of the workers. States, in California, the legislation took into account the training costs necessary during deregulation and considered those costs as a stranded asset.
206	Jones	States that meter installation, inspection, and repair should continue to be the utility's responsibility. Explains, in California, those services are currently being

		unbundled and they are having problems with uniformity of the system, safety, and training issues. States that mergers and sales of utility businesses are changing the industry beyond Oregon's control.
252	Jane Cummins	League of Oregon Cities. States they have been working on the language for franchise fees and privilege taxes. Supports language that would change franchise fees to a volumetric approach. States that franchise fees, in the areas where there is a five percent fee based on gross revenues, would be capped for all time. States that for franchise fees, in areas where there are no fees or lower fees, conditions would be placed in case there is any change. States the language in Section 29, concerning "in lieu payments" that municipal electric utilities make, is convoluted and not supported by the League of Oregon Cities.
300	Fred Gordon	Northwest Energy Efficiency Council. Presents (EXHIBIT H) . Supports SB 1149. States his members work with businesses and residential customers. States that public purposes fund energy efficiency as a way of building new markets. States without the public purposes there would be no investments to cut overhead for government, schools, and other institutions.
350	Gordon	States his members want public purposes funding that is consistent with the regional review. States there is the need to assure a level playing field in the competitive market.
375	Chair Derfler	States SB 1149 is a framework for future legislation and hopes for a consensus on SB 1149. Closes public hearing and adjourns meeting at 9:40 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 654, written testimony, Maureen Bock, 1 p

B ñ SB 1149, written testimony and proposed amendments, Bill Warren, 35 pp

C ñ SB 1149, written testimony and proposed amendments, Cindy Finlayson, 4 pp

D ñ SB 1149, written testimony and proposed amendments, Terry Flores, 3 pp

E ñ SB 1149, written testimony, Larry Campbell, 1 p

F ñ SB 1149, written testimony and proposed amendments, Doug Riggs, 19 pp

G ñ SB 1149, written testimony and graph, Ronald Jones, 4 pp

H ñ SB 1149, written testimony, Fred Gordon, 2 pp