

SENATE COMMITTEE ON PUBLIC AFFAIRS

April 7, 1999 Hearing Room B

7:00 p.m. Tapes 31 - 32

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Eileen Qutub

Sen. Charles Starr

MEMBER EXCUSED: Sen. Thomas Wilde

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 945 Public Hearing

SB 592 Public Hearing and Work Session

SB 787 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 31, A		
000	Chair Derfler	Opens meeting at 7:00 p.m. and opens public hearing on SB 945.
<u>SB 945 PUBLIC HEARING</u>		
005		Staff presents (EXHIBIT A) .
006	Sen. John Lim	Senate District 11. States the Oregon Housing Lobby Coalition and the Coalition to Fund Affordable Housing recommends \$160 million to the housing trust fund. States that Oregon is in a housing crisis that needs state intervention. States that

		fixed income, service workers, and low to middle income workers cannot afford rent payments because they are too high. States that Portland Metro area housing is expensive because of rapid growth in the market, causing a demand for new homes. States that county and city governments have imposed taxes directed at new home owners, called system development charges. States most new development lots cost between \$50,000 to \$80,000 and it is impossible for builders to produce moderately priced homes on expensive lots. States SB 945 would direct to developers a percentage of the total development money dedicated to low cost housing. Urges the support of the committee.
056	Chair Derfler	Asks if this is statewide and if any commercial building, including apartment complexes, would require the general contractors to pay development charges.
059	Sen. Lim	States it is statewide and there would be development charges. States apartment complexes may not qualify as commercial buildings because they are residences.
063	Vice-Chair Dukes	Asks if the builders already pay a systems development charge.
067	Sen. Lim	States this would be on top of a city's systems development charge.
070	Vice-Chair Dukes	Asks if Legislative Counsel has determined that SB 945 constitutes a tax.
071	Chair Derfler	States there is a possible revenue impact.
073	Vice-Chair Dukes	Asks if the bill should have been started in the House.
078	Chair Derfler	States that issue should be addressed because it does raise revenue. Closes public hearing and opens public hearing on SB 592.
<u>SB 592 PUBLIC HEARING</u>		
085	Rob Douglas	Oregon Self-Insurers Association. States SB 592 addresses the premium assessment which is used to fund the Workers' Compensation Division (WCD). States that under the present system the premium assessment is set, a notice goes out, and it is paid. States there is little opportunity for those paying the assessment to have effective public comment. States SB 592 would put a system in place where the department would go through rulemaking under the Administrative Procedures Act. States that SB 592 was introduced at the request of the Oregon Self-Insurers Association, but it affects all employers who pay premium assessments. Supports SB 592.
116	Chair Derfler	Asks why SB 592 is necessary.
117	Douglas	States there is no appeal process for those subject to the premium assessment. States the assessment is a directive from the department and the recipients simply pay the assessment when directed. States there is no effective way to question the methodology that resulted in the assessment.

124	Chair Derfler	States Oregon's assessments are the highest in the nation.
126	Douglas	States the assessment is a percentage of the premium. States that Oregon has traditionally had very high percentages.
133	Sen. Qutub	Asks who is effected other than self-insurers.
137	Douglas	States it effects those who are covered under carriers through workersi compensation.
147	Chair Derfler	States there has been a lot of discussion about assessment premiums.
146	Debbie Lincoln	Deputy Director, Department of Consumer and Business Services (DCBS). Supports SB 592. States that every year calculations are made, and DCBS is open to having that process more open to the public. States the Ways and Means Committee is involved in budget discussions.
163	Greg Malkasian	Manager, Compliance Section, WCD. Supports SB 592.
169	Chair Derfler	Closes public hearing and opens work session on SB 592.
<u>SB 592 WORK SESSION</u>		
172	Sen. Starr	MOTION: Moves TO ADOPT the ñ1 amendments dated 3/25/99 to SB 592.
		VOTE: 4-0 EXCUSED: 1 ñ Wilde
	Chair Derfler	Hearing no objection, declares the motion CARRIED.
177	Sen. Starr	MOTION: Moves SB 592 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Wilde

	Chair Derfler	<p>The motion CARRIES.</p> <p>SEN. STARR will lead discussion on the floor.</p>
183	Chair Derfler	Closes work session and opens public hearing on SB 787.
<u>SB 787 PUBLIC HEARING</u>		
191	Brian Boe	National Association of Independent Insurers. Defers to Mark Hall.
196	Mark Hall	Vice President, Argonaut Insurance, Portland. Supports SB 787. Presents (EXHIBIT B) . States that Owner Controlled Insurance Programs (OCIPs, also known as "wrap ups") are insurance program paid for by the sponsor, providing insurance for most contractors while they work on a project. States that Tri-Met was a sponsor during the construction of the light rail system. States that SB 787 will delete the sunset clause that would cause OCIPs to revert to old legislation. Explains that OCIP benefits include: improved programs to reduce injuries to construction workers, increased opportunities for smaller contractors to participate in large construction jobs and for them to learn sophisticated loss prevention techniques.
246	Hall	States OCIP has documented savings for business owners and improved third party coverage, reducing lawsuits between insurance companies. States there is a section proposed by DCBS to provide safeguards, including eliminating the State Accident and Insurance Fund's (SAIF) advantage of dominating the Oregon market.
273	Chair Derfler	States there were objections from the smaller insurance companies in 1995 because it eliminated their ability to get these larger insurance contracts. States SB 787 would lower the threshold to \$90 million to eliminate more competition.
283	Hall	States that he is unsure if a \$10 million drop is significant.
286	Chair Derfler	States it is significant if it aggravates the situation as it stands.
288	Hall	States that the attempt was to lower the threshold to allow more contractors to become qualified.
291	Boe	States they tried to put together a broad consensus process to address all concerns. States they have circulated this concept and have not heard objections or issues that were originally paramount in 1995. States the ñ1 amendments primarily correct drafting errors. States Section 1, subsection (g) was changed from a 60-day notice to a 90-day notice to all insured parties of cancellation or material reduction in coverage.
311	Sen. Starr	States there needs to be more clarification on the issue with SAIF.

319	Boe	States that it is anti-competitive because SAIF is given a review of each project prior to the project's approval. States it is unnecessary for the survival of SAIF and does not warrant being in statute.
331	Chair Derfler	Asks to clarify what SAIF does that Hall objects to.
333	Hall	States SAIF's advantage is it sees all OCIP proposals before other carriers. States that in his market he may or may not be privy to proposals. Explains that SAIF was successful in writing a "wrap up" for the extension of the light rail to the airport. States that the light rail proposal never went to market, but went straight to SAIF.
348	Chair Derfler	Asks if SAIF is the first bidder.
350	Hall	States SAIF was the only bidder. States that all proposals, through this legislation, would go to SAIF first.
257	Sen. Starr	Asks if page 2, lines 28-30, is the section that concerns them about SAIF.
362	Hall	States that is the section even though it does not specify SAIF.
365	Boe	States it is unfair that all private approvals must be submitted to SAIF.
375	Chris Davie	SAIF. Presents (EXHIBIT C) . States SAIF was not involved in the original legislation in 1995. States the language in SB 787 does not give SAIF any specified advantage in determining who will win the bid, it only gives SAIF the opportunity to propose a policy. States SAIF needs to be aware of the project so that a bid can be made if SAIF wants to. States that Argonaut is a national leader of "wrap up" projects.
TAPE 32, A		
001	Davie	States that other than the three projects SAIF has successfully been able to bid on, every other "wrap up" project in Oregon has been awarded to Argonaut who specializes in these types of projects. States that Argonaut's "wrap ups" typically involve combining workers' compensation insurance and general liability exposure that comes from a project like this, where SAIF only covers workers' compensation insurance. States SAIF is at a disadvantage because they cannot offer both types of insurance. States that SAIF partners with another company to offer full coverage. Explains that SAIF loses more projects than they win. States that mergers have left only two large international brokerage firms and the advantage goes to Argonaut because of the dominant position they have established in this area.
050	Davie	Believes the public interest is best served by giving Oregon's own insurance company at least an opportunity to bid on these projects. States that SB 787 gives no preferential treatment to SAIF. Asks the committee to restore the language removed on page two, lines 28-30.

060	Vice-Chair Dukes	Asks what is a mono-line workers' compensation insurer.
063	Davie	States "mono-line" means that the insurer only sells one line of insurance.
070	Vice-Chair Dukes	Asks why the legislature had restricted using insurance companies that only sell workers' compensation.
072	Davie	States the reason for the language, for a mono-line insurer, is to include SAIF because only SAIF fits that definition.
076	Vice-Chair Dukes	Asks if she is looking for logic that is not there, and if it was an amendment that SAIF submitted.
078	Davie	States it was not SAIF's amendment, but was the original language when the bill was drafted. States the logic is to give Oregon's insurance firm an opportunity to bid on these projects, in hopes that if SAIF is awarded projects the money would stay in Oregon.
088	Chair Derfler	States that if the language is deleted as proposed, it would not stop SAIF from bidding on these projects.
090	Davie	States that if the statute was changed, SAIF may not necessarily be made aware of new projects. Explains that there will be no requirement for anyone to make that information available to SAIF.
098	Chair Derfler	Asks why SAIF should be notified of these projects and not every insurance company.
101	Davie	States that SAIF is Oregon's insurance company and should have the opportunity to bid or decline every project.
109	Chair Derfler	Closes public hearing and opens work session on SB 787.
<u>SB 787 WORK SESSION</u>		
111	Chair Derfler	States that during the 1995 Legislative Session there were some objections from the local insurance companies. States that the advantage has cut costs of the projects. States the program has been successful, and the questions are whether or not to change the threshold and should Oregon continue to allow SAIF the opportunity to be privy to the projects taking place.
127	Sen. Qutub	Asks if other insurance companies could create packages to bid for these types of projects.

135	Jack Monroe	States the client he represented last time was an agent constituency and not a company constituency. States some agents continue to serve their long-time clients, but essentially end up being cut out of the insurance process. States he was part of the process of crafting the provisions, and was also an advocate of the sunset provision which allows people to see if the benefits described were being realized.
161	Sen. Qutub	Asks, prior to SB 787, if subcontractors individually insured their smaller groups for what they were doing on a particular job.
165	Monroe	States that if a project was put together before 1995 one would go before the legislature because it required an exception to grouping standards that are in the insurance code. States most of those projects were public. States that with the 1995 law, any insurer could do this as long as they met the threshold and certain conditions.
185	Lana Butterfield	Oregon Professional Agents. States their concerns were about bookkeeping nightmares, double insurance charges, and negative impacts on lowering of modifications. States if the threshold had been lowered any more than proposed, her agency would object to SB 787. States her agency takes a neutral position on SB 787.
199	Sen. Qutub	Asks why, with inflation, the threshold is being lowered and why Butterfield is neutral on this issue.
204	Butterfield	States that workers' compensation premiums have gone down.
211	Sen. Starr	States the most contentious issue is the reinsertion of item (g) on page 2. States the provision makes somewhat of an unlevel playing field. States he personally prefers to keep it out of SB 787. Believes SAIF is in the position to know of these large projects and would be able to compete without the mandatory requirement in the statute. Recommends passing SB 787 without item (g).
230	Sen. Qutub	Moves to adopt the 11 amendments.
233	Vice-Chair Dukes	States she would be more comfortable if the threshold remained at \$100 million. States that inflation has made these projects more expensive.
250	Sen. Qutub	MOTION: Moves TO ADOPT the 11 amendments dated 3/23/99 to SB 787.
		VOTE: 4-0 EXCUSED: 1 11 Wilde
Chair Derfler		Hearing no objection, declares the motion CARRIED.

259	Sen. Starr	MOTION: Moves SB 787 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Wilde
	Chair Derfler	The motion CARRIES. SEN. STARR will lead discussion on the floor.
268	Chair Derfler	Closes work session and adjourns meeting at 8:00 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 945, written testimony, staff, 1 p

B ñ SB 787, written testimony, Mark Hall, 5 pp

C ñ SB 787, written testimony, Chris Davie, 2 pp