

**SENATE COMMITTEE ON RULES AND ELECTIONS**

May 28, 1999 Hearing Room B

8:00 a.m. Tapes 67 ñ 68

**MEMBERS PRESENT: Sen. Charles Starr, Chair**

**Sen. Lee Beyer**

**Sen. Peter Courtney**

**MEMBER EXCUSED: Sen. Randy Miller, Vice-Chair**

**Sen. Neil Bryant**

**STAFF PRESENT: Brian E. Smith, Administrator**

**Rachel E. Halupowski, Administrative Support**

**MEASURE/ISSUES HEARD: SB 1243 Public Hearing and Work Session**

**HB 2704A Public Hearing and Work Session**

**SB 1245 Public Hearing and Work Session**

**HB 2800A Public Hearing and Work Session**

**HB 3616A 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
<b>TAPE 67, A</b>		
000	Chair Starr	Opens meeting at 8:06 a.m. and opens public hearing on HB 1243.
<b><u>SB 1243 PUBLIC HEARING</u></b>		

008	Sen. Mae Yih	Senate District 19. Presents <b>(EXHIBIT A)</b> . States SB 1243 would allow justices of the peace to receive the same Public Employee Retirement System (PERS) benefit package as other judges. Explains the ñ1 amendments state that if a county establishes a new justice of the peace district after the effective date of SB 1243, the county would then pay the additional employee contribution. Asks the committee to send SB 1243 to the Ways and Means Committee with a do pass as amended recommendation.
045	Judge Jad Lemhouse	Justice of the Peace, Linn County District 4. Presents <b>(EXHIBIT B)</b> . Explains the justice courts jurisdiction. States justices of the peace are exercising state court judicial power, serve a six year elective term, but are not part of the PERS judge member group. Explains there needs to be an expenditure of state funds.
095	Lemhouse	States half of the fines collected from traffic cases, by justice courts, are paid to the State of Oregon.
105	Chair Starr	Asks what is the present retirement program.
107	Lemhouse	States the PERS program in the general membership pool.
137	Chair Starr	Clarifies that justices of the peace are in the general PERS program, and SB 1243 would bring them into the judges level of the system.
143	Sen. Courtney	Asks if he really wants to rely on PERS because of the changes that are happening this Legislative Session.
144	Lemhouse	States he is unaware of the specific changes being made.
145	Sen. Courtney	States there are changes occurring in PERS with the passage of SB 722.
161	Cindy Cable	Justice of the Peace, Florence District, Lane County. Presents <b>(EXHIBIT C)</b> . States that justices serve at a far lower compensation level than circuit court judges.
193	Maria Keltner	Association of Oregon Counties (AOC). States AOC is not opposed to HB 1243 because it does not increase the cost to counties for this change.
204	Chair Starr	Asks if she has read the ñ1 amendments.
214	Keltner	States she has not had the chance to get feedback from AOC or other counties regarding the ñ1 amendments.
218	Chair Starr	Closes public hearing and opens work session on HB 1243.

**SB 1243 WORK SESSION**

219	Sen. Courtney	<b>MOTION: Moves to ADOPT SB 1243-1 amendments dated 5/27/99.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - Miller, Bryant</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>
225	Sen. Courtney	<b>MOTION: Moves SB 1243 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Miller, Bryant</b>
	Chair Starr	<b>The motion CARRIES.</b>
234	Chair Starr	Closes work session and opens public hearing on HB 2704A.
<b><u>HB 2704A PUBLIC HEARING</u></b>		
248	Rep. Jerry Krummel	House District 27. States HB 2704A would create mandatory registration for athletic trainers in Oregon. States the current program has been semi-successful and there are 65 voluntary registrants. States there is nothing in HB 2704A that would require schools to hire registered athletic trainers.
272	Sen. Courtney	Believes registered athletic trainers should be mandatory in all schools and colleges in Oregon.
319	Stephan Kafoury	Oregon Physical Therapy Association. Supports HB 2704A. States on page 1, Section 1, line 8, the word "generally" should be deleted. Defers to Margaret Harris.
352	Margaret Harris	Physical Therapist. States that if the word "generally" is left in HB 2704A it would allow athletic trainers to practice in a wider field than what they have been trained to do. States the therapists are concerned with athletic trainers working

		outside of their scope of training.
387	Kafoury	Clarifies that the Athletic Trainers Association agrees with the Physical Therapy Association.
391	Sen. Courtney	Clarifies that the athletic trainers agree with Harris.
395	Harris	States yes.
396	Sen. Courtney	Asks Rep. Krummel if he was aware of the issue.
399	Rep. Krummel	States no. Believes the word "generally" is accurate. States the Athletic Trainers Association did not contact him concerning HB 2704A.
449	Kafoury	Apologizes to Rep. Krummel for the lack of communication.
<b>TAPE 68, A</b>		
001	Sen. Beyer	Asks why "generally" is an important word when it does not appear in the definition of what trainers do, but of who an athlete is.
006	Harris	States that it identifies who athletic trainers treat.
008	Sen. Beyer	Asks how it does that.
010	Harris	States because it identifies an athlete and what an athletic injury is, so it determines who and what an athletic trainer is going to treat.
014	Kafoury	Clarifies in subsection 2 an athletic injury means an injury occurring as the result of participating as an athlete.
016	Harris	States that "practicing athletic training" means professional activities undertaken by a registered athletic trainer.
022	Rep. Krummel	States the definition of "athlete" in HB 2704A is accurate. States that by putting in statute what an athletic injury is will limit what the athletic trainer can treat.
052	Sen. Courtney	States he will vote on this measure if necessary, but asks if the bill can be postponed until the issue of "generally" is resolved.
069	Chair Starr	Closes public hearing and opens public hearing on SB 1245.

**SB 1245 PUBLIC HEARING**

075	Jerry Schmidt	Oregon Association of Realtors. Supports SB 1245 with the ñ9 amendments. Discusses notice provisions, drafting errors, and the need to narrow the scope of SB 1245 to the Land Conservation and Development Commission (LCDC). Explains LCDC opposes SB 1245.
120	Sen. Beyer	Asks in which cases would LCDC enter private property without permission from someone.
124	Schmidt	States he cannot figure out how an agency with their responsibilities would ever enter properties without notice.
130	Sen. Beyer	Asks if his agenda is a starting place.
132	Schmidt	Agrees. States the procedures need to be established. States there needs to be a comprehensive solution involving all other agencies.
160	Bob Rindy	Department of Land Conservation and Development. Opposes SB 1245. Discusses comments by the Attorney Generalís office concerning the "area of critical concern" program, and notes that the statute has never been implemented. States the "area of critical concern" is at the call of the Legislature. States there is no reason for LCDC to inspect properties. States there is no reason for this legislation.
210	Richard Whitman	Assistant Attorney General, Oregon Department of Justice. States that private property cannot be entered without the permission of the owner. States there are exceptions, specifically where there is a threat to public health or safety, or if there is evidence of a crime that may be lost if the area is not secured. Discusses "area of concern."
260	Whitman	Discusses issues with SB 1245 where it removes county and LCDC authority to enter public property where there is no public access.
275	Sen. Beyer	Asks if the major concern is removing county authority to enter public property.
279	Whitman	States that is one of the concerns. States SB 1245 would require LCDC or the counties to obtain prior permission from the property owner before entering private property.
287	Sen. Beyer	Asks how in SB 1245 that is done.
290	Whitman	States page 1, line 12, in the ñ9 amendments deletes the reference to public property. Explains lines 4 and 5 state at the beginning of the section it is both counties and LCDC.

297	Sen. Beyer	Asks if county governments are concerned because SB 1245 would limit their ability to enforce zoning codes.
304	Whitman	States most counties would not be affected, unless there is an event that would be designated as an "area of concern." States there is no current effect on counties because there is no area designated.
307	Sen. Beyer	Clarifies SB 1245 comes into play if there are "areas of concern" designated.
316	Chair Starr	Closes public hearing and opens work session on SB 1245.
<b><u>SB 1245 WORK SESSION</u></b>		
324	Chair Starr	States SB 1245 will not be moved today.
333	Sen. Beyer	States it would make sense to notify people.
347	Sen. Courtney	States the committee is still open, so there is always time.
348	Chair Starr	Closes public hearing on SB 1245 and opens work session on HB 2704.
<b><u>HB 2704A WORK SESSION</u></b>		
361	Kafoury	Asks the committee to move HB 2704A to the floor as it is. States there has been agreement made among all parties to revisit the previous objections and make changes through administrative rules.
374	Sen. Courtney	<b>MOTION: Moves HB 2704A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Miller, Bryant</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. COURTNEY will lead discussion on the floor.</b>

386	Chair Starr	Closes work session and open public hearing on HB 2800A.
<b><u>HB 2800A PUBLIC HEARING</u></b>		
406	Dave Barrows	Chemical Waste Management of the Northwest. Supports HB 2800A and HB 3616. Defers to Don Haagensen.
458	Don Haagensen	Legal Counsel, Chemical Waste Management of the Northwest. Presents <b>(EXHIBIT D)</b> . States HB 2800A would continue to enforce categories of disposal fees for waste disposal at the Arlington facility. States the fees go directly to the Department of Environmental Quality (DEQ) to support hazardous waste and environmental cleanup programs. States Idaho has lowered their disposal fees to generate more income, and Oregon has responded by lowering their fees.
<b>TAPE 67, B</b>		
001	Haagensen	States, in Section C, there is a category of waste that Arlington is authorized to dispose of, but the facility has not received those disposals because the fee is \$30 while Idaho's fee is \$5. States HB 2800A proposes to lower the fee to \$7.50 to remain competitive. States the amendments would allow Arlington the opportunity to have a hazardous waste recycling facility.
023	Barrows	Discusses the by-product recycling effort. Discusses the need for HB 2800A to allow Arlington an even playing field with Idaho. Opposes the proposed amendments because it will ensure Idaho the lower costs.
048	Sen. Courtney	Asks if he is familiar with the constitutional issue raised.
051	Barrows	States the issue was raised with Section 1 of HB 3616A.
055	Sen. Courtney	States Sen. Bryant brought up the issue.
062	Barrows	States HB 2800A is supported by DEQ and AOI.
070	Kafoury	EnviroSource. Supports HB 2800A. Discusses EnviroSafe, EnviroSource's company in Idaho. States EnviroSafe already has the equipment needed to dispose of hazardous waste, and there would not be a need to devise a plan of waste management. Discusses the need for the nA5 amendments to keep Idaho from lowering their costs even further. States the nA5 amendments would ensure a level playing field.
120	Kafoury	Believes the Arlington facility should operate at the same level as EnviroSafe.
130	Sen. Beyer	Clarifies that the nA4 amendments were brought forward by those proposing HB

		2800A, and the ñA5 amendments were brought forward by EnviroSource.
131	Kafoury	States they have no stand on the ñA4 amendments.
136	Chair Starr	Clarifies that Barrows is opposed to the ñA5 amendments.
141	Barrows	States the language in Section C only specifies the Oregon facility, not the Idaho facility. States there are no requirements for the Idaho facility. Discusses losses to DEQ because of Idahoís "ratcheting."
159	Bob Danko	Department of Environmental Quality. Supports HB 2800A with the ñA4 amendments.
169	Sen. Beyer	Asks his opinion on the ñA5 amendments.
170	Danko	Opposes the ñA5 amendments. Believes it is DEQís role to ensure the environment is being protected.
184	Sen. Beyer	Asks what the ñA5 amendments do.
185	Danko	States they force the Arlington facility to go through a rigorous regulatory process to get a lower fee. States the money should be spent dealing with environmental issues, and not the bureaucratic regulatory side, to get the lower fee.
192	Sen. Beyer	Asks if there is any public benefit to go through the process.
194	Danko	States yes, because any time a hazardous waste is converted to a status that is not hazardous it is beneficial to the public.
204	Haagensen	States the process has never been used in Oregon because it is a two year process. States the application fee can rise up to \$130,000. States there is not a sufficient amount of waste to justify the process.
210	Chair Starr	Closes public hearing and opens work session on HB 2800A.
<b><u>HB 2800A WORK SESSION</u></b>		
212	Sen. Starr	<b>MOTION: Moves to ADOPT HB 2800A-4 amendments dated 5/25/99.</b>
		<b>VOTE: 3-0</b>



		<b>EXCUSED: 2 - Miller, Bryant</b>
	<b>Chair Starr</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>218</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves HB 2800A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Miller, Bryant</b>
	<b>Chair Starr</b>	<b>The motion CARRIES.</b>  <b>SEN. BEYER will lead discussion on the floor.</b>
230	Chair Starr	Closes work session and opens public hearing on HB 3616A.
<b><u>HB 3616A PUBLIC HEARING</u></b>		
236	Barrows	States the ñA3 amendments deal with the same aluminum recycling process fee that was just now adopted in HB 2800A. Defers to Haagensen.
246	Haagensen	Discusses HB 3616A by section. States Section 1 addresses the Oregon environmental clean-up laws. States Section 2 establishes conditions for permit renewal. States Section 3 is a housekeeping function because the state has no ownership role in the facility. States Section 4 covers public contracting. States the ñA3 amendments would codify the process that would be used to issue a permit for a hazardous waste facility.
296	Haagensen	States the permitting modification used by Oregon will allow the state to be reimbursed for processing applications.
305	Barrows	States Sections 2 and 3 and the ñA3 amendments met no controversy. States there was a proposition to delete Section 4, but that would give Oregon an unlevel playing field compared with Idaho. States, currently, there is no statutory authority for the DEQ to recognize the fact that they will actually receive fee money.
350	Haagensen	States that Oregon lost a bid to Idaho because Idahoís bid was \$16,000 lower than Oregonís. States that Oregon lost \$540,000 in disposal fees.

365	Barrows	States the Department supports keeping Section 4 in the bill. Explains that Section 1, the dig and haul section, states the waste must go to a facility licensed by the State of Oregon. States this may raise a constitutional question relating to the Interstate Commerce Clause. Defers to Haagensen.
367	Haagensen	States he did not address the constitutionality of HB 3616A. States he would like the opportunity to look at those issues and draft new amendments.
402	Sen. Beyer	Asks to specify which language in HB 3616A is in conflict.
404	Haagensen	States page 2, line 30. States the language would restrict preference for excavation onsite disposal to a facility authorized under Oregon law.
435	Chair Starr	Clarifies HB 3616A should not be moved until the language issues are addressed.
438	Sen. Courtney	Asks who will develop the amendments.
445	Barrows	States Legislative Counsel will be involved in drafting those amendments.
454	Haagensen	States these issues need to be addressed before moving HB 3616A.
<b>TAPE 68, B</b>		
001	Jim Whitty	EnviroSource. Presents <b>(EXHIBIT E)</b> . States HB 3616A is an improvement on the comprehensive cleanup law revisions of 1995. States the ñA4 amendments address Section 1 and Section 4. States that DEQ has been apprised of the constitutionality issue concerning the commerce clause. States that DEQ is under notice that if those issues are not addressed a lawsuit will ensue.
032	Kafoury	Suggests the constitutional problems should be addressed with the help of Legislative Counsel and the proponents of the bill.
038	Danko	Supports HB 3616A with the ñA3 amendments. Disagrees with the belief that Section 4 is unconstitutional. Agrees with the concerns in Section 1.
055	Chair Starr	Asks the parties to work together and states HB 3616A will be addressed at a later date. Closes public hearing and adjourns the meeting at 9:40 a.m.

Submitted By, Reviewed By,

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

**EXHIBIT SUMMARY**

**A ñ SB 1243, written testimony, Sen. Yih, 1 p**

**B ñ SB 1243, written testimony, Jad Lemhouse, 2 pp**

**C ñ SB 1243, written testimony, Cindy Cabel, 2 pp**

**D ñ HB 2800A and HB 3616A, written testimony, Don Haagensen, 5 pp**

**E ñ HB 3616A, written testimony, Jim Whitty, 2 pp**