

SENATE COMMITTEE ON TRANSPORTATION

April 27, 1999 Hearing Room B

6:00 p.m. Tapes 75 - 76

MEMBERS PRESENT: Sen. Marylin Shannon, Chair

Sen. Mae Yih, Vice-Chair

Sen. Susan Castillo

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Gary George

Sen. Lenn Hannon

MEMBER EXCUSED:

STAFF PRESENT: Megan Palau, Administrator

Gary Roulier, Administrative Support

MEASURE/ISSUES HEARD: SB 1124 Public Hearing and Work Sessions

SB 608 Work Session

SB 1108 Work Session

SB 1058 Work Session

SB 908 Work Session

SB 1121 Work Session

SB 1282 Work Session

TAPE/#	Speaker	Comments
TAPE 75, A		
003	Chair Shannon	Opens the meeting at 6:08 p.m. and opens a work session on SB 1124.
<u>SB 1124 PUBLIC HEARING</u>		
012	Sen. Neil Bryant	Senate District 27. Testifies in support of SB 1124.
018	Linda Swearingen	Chair, Deschutes County Commissioner. Testifies in support of SB 1124 which requires commissioners of special road districts to be elected rather than appointed.
048	Swearingen	Summarizes problems due to lack of accountability with appointed commissioners. Notes that some special road districts seem to be overcharging citizens.
091	Swearingen	Remarks that the only recourse for citizens is to withdraw from the special road districts. Adds that some special road districts oppose SB 1124 because of the costs of elections.
143	Sen. Hannon	Asks whether the statutes give the power to create and also abolish special road districts to the counties.
161	Swearingen	Responds that she is not certain that a county commission can dissolve a special road district.
167	Sen. Hannon	Asks whether SB 1124 would negatively impact other special districts.
171	Swearingen	Reiterates the citizens have the right to representation on a body that has the authority to tax. Presents (EXHIBIT A) and explains a proposed amendment that would grant counties the choice of appointing or electing special road district boards.
177	Sen. Castillo	Asks what dictates the necessity to appoint certain members.
182	Swearingen	Responds that some boards will get creative in appointing board members.
193	Hasina Squires	Special Districts Association of Oregon. Presents (EXHIBIT B) and testifies in opposition to SB 1124. Responds to Sen. Hannon that SB 1124 only deals with special road districts. Notes that districts are formed primarily for snow removal and other services that cannot be provided by the counties.

230	Squires	States that counties hold the authority to approve special road districts. Remarks that not all road districts levy taxes but are supported by contributions, grants and other funding sources.
267	Squires	Stresses that districts do not oppose elections but their expense.
282	Chair Shannon	Asks if there would be any objection if the county commissioners funded the election.
294	Squires	Responds that there would be no opposition but would prefer that elections be uniform throughout the state.
310	Chair Shannon	Asks why this would not be an issue that is controlled locally.
319	Squires	Answers that a standardized process would simplify the elections.
330	Chair Shannon	Comments that the county commissioners would still control the process whether appointed or elected.
338	Squires	Responds that there would be no objection as long as the expense is borne by the county.
348	Swearingen	Agrees that the compromise is reasonable but states that the cost of the election should be borne by the special road district.
379	Squires	Comments that the draft does not provide for funding for the special districts to finance elections.
402	Swearingen	Adds that the expense for elections would not be a problem for the county.
TAPE 76, A		
008	Chair Shannon	Suggests that the bill be amended in the House.
019	Sen. Castillo	Asks how the process of elections would work with 20 special road districts in Deschutes County.
023	Swearingen	Notes that the elections are held for staggered terms.
030	Chair Shannon	Closes the public hearing and opens a work session on SB 1124.
<u>SB 1124 WORK SESSION</u>		

032	Chair Shannon	Notes that the amendments are draft and that SB 1124 will have to be heard next week. Closes the work session and opens a work session on SB 608.
<u>SB 608 WORK SESSION</u>		
053	Palau	Explains the provisions of SB 608 which provides funds for covered bridges.
058	Sen. Yih	Asks if SB 608 can be used to finance maintenance programs for non-vehicular covered bridges.
070	Doug Tindall	Maintenance Engineer, Oregon Department of Transportation (ODOT). Remarks that there are no covered bridges in the state highway system and funds for maintenance are provided to counties and cities.
084	Sen. George	Asks what assurance the committee would have that funds would continue to be expended for covered bridge maintenance.
091	Tindall	Responds that ODOT continues to maintain covered bridges and will provide a list of the bridges being maintained. Remarks that a budget note would insure that funds continue to be expended for maintenance of covered bridges.
097	Chair Shannon	Closes the work session and opens a work session on SB 1108.
<u>SB 1108 WORK SESSION</u>		
119	Palau	Presents (EXHIBIT C) and explains the amendment which further defines farm-to-market roads.
129	Sen. Hannon	Suggests that the definition of a farm-to-market road also include urban roads.
139	Sen. Hannon	MOTION: Moves to ADOPT SB 1108-2 amendments dated 4/23/99 and that the measure be FURTHER AMENDED on page 1, line 3, by inserting "or urban" after "rural".
	Chair Shannon	Hearing no objection, declares the motion CARRIED.
152	Sen. Hannon	MOTION: Moves SB 1108 to the floor with a DO PASS AS AMENDED recommendation.
161	Sen. Yih	Asks for the purpose of the bill.
163	Chair Shannon	Responds that the purpose is to give farm-to-market roads a higher visibility and

		priority.
174		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Dukes, Ferrioli
	Chair Shannon	The motion CARRIES. SEN. DUKES will lead discussion on the floor.
181	Chair Shannon	Closes the work session and opens a work session on SB 1058.

SB 1058 WORK SESSION

189	Palau	Presents (EXHIBIT D) and explains that the amendment changes the exemption for emission inspections from vehicles eight years old or less to four years old or less.
197	Sen. George	Remarks that the newer vehicles are operating much cleaner.
205	Sen. Yih	Asks how citizens will be informed that their vehicle requires testing.
213	Sen. Hannon	Responds that the vehicle registration informs the owner. Discusses the procedures for notification with Sen. Yih.
243	Sen. Castillo	Asks for the Department of Environmental Quality (DEQ) opinion of the amendment.
250	Greg Green	Air Quality Administrator, DEQ. Notes that a draft report from the EPA indicates that emission inspections probably do not get maximum benefit on vehicles four years old or less. Notes that the pollution control equipment on newer cars is working better than anticipated.
272	Sen. George	Comments that over 95 percent of the vehicles that are eight years old or less met or passed the standards for emissions.
281	Green	Notes that he does not have the data on the vehicles eight years or older and the technical analysis on the vehicles four years and younger is still being completed. Adds that the estimate is that 95 percent of the newer cars pass.

299	Sen. Hannon	Asks what the fiscal impact would be for DEQ if the newer cars are not inspected.
310	Green	Answers that DEQ would prefer to withhold judgement until EPA renders the final report. Agrees that SB 1058 will create a budget shortfall. Summarizes some alternative funding sources.
343	Chair Shannon	Remarks that with fewer vehicles to inspect, DEQ would not have to replace staff as they retire.
345	Green	Responds that employee levels are based on customer service objectives.
356	Sen. Castillo	Asks if DEQ would prefer waiting until the EPA finalized their report, and whether the DEQ would have to get approval from the EPA for a new Metropolitan Maintenance Plan.
374	Green	Responds that is correct and adds that EPA would have to approve a new plan. Adds that the amendment would mean that only 1-2 thousand tons of additional pollution would be generated daily.
381	Sen. George	Remarks that 2,000 vehicles cannot generate 2,000 tons of pollution.
387	Green	Responds that 2,000 vehicles can account for a significant amount of pollution.
401	Sen. George	Comments that 2,000 vehicles at \$21 per inspection only amounts to \$42,000 in fiscal impact.

TAPE 75, B

019	Chair Shannon	Asks what reductions in staff would result from SB 1058.
022	Green	Responds that DEQ has done a fiscal impact and will provide to the committee. Adds that DEQ is proposing moving some employee positions to contract positions.
055	Sen. George	MOTION: Moves to ADOPT SB 1058-1 amendments dated 4/27/99.
	Chair Shannon	Hearing no objection, declares the motion CARRIED.
081	Sen. George	MOTION: Moves SB 1058 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 4-2

AYE: 4 - Ferrioli, George, Yih, Shannon

NAY: 2 - Castillo, Hannon

EXCUSED: 1 - Dukes

087 Chair Shannon

The motion CARRIES.

SEN. GEORGE will lead discussion on the floor.

089 Chair Shannon

Closes the work session and opens a work session on SB 908.

SB 908 WORK SESSION

091 Palau

Presents (**EXHIBIT E**) and explains the ñ 4 amendments to SB 908.

107 Sen. Castillo

Asks for the fiscal impact for the amendments.

110 Palau

Responds that the fiscal impact would be minimal.

119 Sen. Yih

Discusses possible signage to be posted in gas stations to inform consumers about the percentage of taxes.

134 Sen. George

Asks how many gas stations would be impacted.

137 Sen. Ferrioli

Responds that the fiscal impact statement indicates that it would impact 1,847 licensed gas stations.

144 Sen. Castillo

Asks about information on county and city taxes.

148 Sen. Ferrioli

Suggests an amendment that requires that all federal, state and municipal taxes be posted.

171 Joan Plank

ODOT. States that there is a potential for a fiscal impact but does not have the exact figures.

187 Sen. Yih

Explains that ODOT will still have to provide information to all gas stations on the amounts of federal, state and local taxes.

191 Plank

Remarks that ODOT has held discussions on providing information through a web page.

202	Sen. Castillo	Stresses that SB 908 is holding ODOT responsible for funding the signage when much of the tax is federal or county.
215	Plank	Notes that the amendments are not clear as to what signage is required to be prepared by ODOT.
227	Tom Gallagher	ARCO Gasoline. Notes that signage is posted in California although it is not required by statute. States that the gas dealers are willing to post signs but a decal may be a better solution.
256	Sen. Ferrioli	Suggests that Section 2, line 6 of the ñ4 amendments be changed to read "decal" instead of sign, and on line 11, change sign to "decal."
277	Gallagher	Notes that space is limited on the newer gas pumps and suggests a small 3 inches by 5 inches decal.
283	Sen. George	Recommends that \$3,000 be provided to each gas station to post the signs.
294	Sen. Yih	Suggests a change on line 10 of the ñ4 amendments to add "local taxes."
324	Sen. Ferrioli	Reiterates suggested changes to the amendments.
353	Sen. George	Comments that gas pumps vary in size and the amendment should not mandate the size of the decal.
361	Gallagher	Notes that this amount of detail does not usually go into statute.
378	Sen. Hannon	Asks about subsection (d) and whether the post office box number for ODOT would be readable.
389	Sen. Ferrioli	States that the size of the decal would be left to the dealers.
396	Sen. Yih	Asks if the committee still wants to include a contact number on the decal.
400	Sen. Hannon	Comments that ODOT will have to provide staff to field phone calls.
404	Sen. Ferrioli	Alters his suggestion for the conceptual amendment to delete Section 2(d).

TAPE 76, B

005	Chair Shannon	Recommends that subsection 2(c) be changed to refer to local tax and subsection 2(d) be added referring to the total amount of tax.
022	Sen. Ferrioli	Suggests that a decal be placed on each gas pump.
027	Mike Sherlock	Oregon Gasoline Dealers Association. Remarks that the dealers would rather not have a decal on each pump.
037	Gallagher	Notes that the intent is to inform the public about the amount of taxes.

053	Sen. Ferrioli	<p>MOTION: Moves to ADOPT SB 908-4 amendments dated 4/27/99 and that the measure be FURTHER AMENDED on page 1, line 6, by deleting "that makes a sign" before "visible" and on page 1, line 7, by deleting "8 1/2 inches by 11 inches and that contains" before "the" and on page 1, line 10, by inserting "(c) The amount of the price per gallon that is local tax." and on page 1, by deleting lines 11 through 13, and on page 1, line 10, by inserting "," after federal, and on page 1, line 10, by deleting "and" after "federal" and on page 1, line 10, by inserting "and local" after "state" and on page 1, line 14, by deleting "one sign" after "furnish" and on page 1, line 14, by inserting "the information" after "furnish".</p>
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Chair Shannon	Hearing no objection, declares the motion CARRIED.
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082	Sen. Ferrioli	MOTION: Moves SB 908 to the floor with a DO PASS AS AMENDED recommendation.
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VOTE: 6-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Dukes

Chair Shannon	The motion CARRIES.
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097	Chair Shannon	Closes the work session and opens a work session on SB 1121.
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SB 1121 WORK SESSION

126	Chair Shannon	Closes the work session and opens a work session on SB 1282.
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SB 1282 WORK SESSION

136	Palau	Presents (EXHIBIT F) and explains the amendments which now refer only to the Department of Transportation.
141	Sen. Hannon	Remarks that SB 1282 seems to deal more with subcontractors looking to receive payment from ODOT. Discusses the language contained in the ñ 1 amendment.
161	Tindall	Responds that all actions are brought through the prime contractor. Adds that the existing claim review process was agreed to with the Association of General Contractors.
186	Sen. Hannon	Asks what happens when a contractor prevails under the existing statute.
191	Tindall	Responds that there is no provision for payment of legal expenses if the contractor prevails, but adds that there are no provisions for payment to ODOT if ODOT prevails. Notes that a contractor receiving an award of \$1 would recover 100 percent of legal expenses. Recommends that the contractor receive attorney fees only to the proportional share of the claim awarded.
222	Chair Shannon	Asks what the payments are from ODOT to the Attorney General's office for legal fees.
227	Tindall	Responds that he is not aware of the total amount but will provide to the committee.
230	Sen. George	Asks if there are any provisions for declining future awards of contracts to a contractor if they have brought a frivolous lawsuit.
241	Tindall	Responds that there are no provisions for denying a contract for bringing a frivolous lawsuit.
253	Sen. Castillo	Asks if the concern about frivolous lawsuits is the only objection.
259	Tindall	Answers that it is and adds that most claims are quickly resolved. Reviews a case involving KT Contracting Company where only 2 of 36 issues are still pending.
276	Chair Shannon	Asks if the court judgement was in favor of KT Contracting Company.
280	Tindall	Responds that the claims are still pending.
289	Sen. Castillo	Asks for a percentage of claims filed relative to the total contracts.

294	Tindall	Answers that most claims are over additional work to a contract. Adds that disputed claims amount to 10 to 15 percent of the total contracts.
308	Sen. Yih	Asks if attorney fees are awarded in the event of a successful claim.
315	Tindall	Responds that there are no provisions for payment of attorney fees.
320	Sen. Yih	Comments that attorney fees should be paid. Adds that the bill requestor will not benefit from the provisions of the bill.
336	Chair Shannon	States that SB 1282 will be an incentive to settle claims.
337	Chair Shannon	MOTION: Moves to ADOPT SB 1282-1 amendments dated 4/27/99.
	Chair Shannon	Hearing no objection, declares the motion CARRIED.
345	Sen. Castillo	Expresses concerns that awards for attorney fees will cost taxpayer money.
364	Chair Shannon	Comments that this will be a tool for both parties to resolve claims.
384	Sen. Castillo	Remarks that the loser of a claim with ODOT is not required to pay ODOT attorney fees.
413	Sen. Ferrioli	Notes that the bill also encourages that disputes be resolved at a lower level.
449	Sen. Shannon	MOTION: Moves SB 1282 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-2
		AYE: 4 - Ferrioli, George, Yih, Shannon
		NAY: 2 - Castillo, Hannon
		EXCUSED: 1 - Dukes
	Chair Shannon	The motion CARRIES.
		SEN. SHANNON will lead discussion on the floor.
458	Chair Shannon	Closes the work session and adjourns the meeting at 8:00 p.m.

Submitted By, Reviewed By,

Gary Roulier, Megan Palau,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 1124, amendments, staff, 3 pp

B ñ SB 1124, road district tax tables, staff, 4 pp

C ñ SB 1108, amendments, staff, 1 p

D ñ SB 1058, amendments, staff, 1 p

E ñ SB 908, amendments, staff, 1 p

F ñ SB 1282, amendments, staff, 1 p