

HOUSE COMMITTEE ON COMMERCE

June 4, 1997 Hearing Room 343

8:30 A.M. Tapes 60 - 61

MEMBERS PRESENT:

Rep. Eldon Johnson, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Ron Adams

Rep. Roger Beyer

Rep. Richard Devlin

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Jackie Taylor

Rep. Tom Whelan

STAFF PRESENT:

Julie Neburka, Administrator

Keith Putman, Administrator

Coben Tistadt, Administrative Support

MEASURE/ISSUES HEARD:

HB 3500 - 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 60, A		
003	Chair Johnson	Opens meeting at 8:36 AM. Opens public hearing on HB 3500.

<u>HB 3500 - PUBLIC HEARING</u>		
007	Chair Johnson	States that they will start with a discussion on power deregulation issues.
012	Rep. Adams	Mentions his request that the HB 2060 -29 amendments be included in HB 3500.
022	Julie Neburka	Committee Administrator. States that Dexter Johnson will be available for questions shortly. States that the amendments deal with proscribing safety standards and with moving equipment in rights of way.
039	Rep. Adams	Asks if the committee intends to leave out section 4(a).
048	Chair Johnson	Explains that they are discussing the -3 amendments (EXHIBIT A) which are the same as the -29 amendments to HB 2060.
055	Neburka	Summarizes the different sections of the -3 amendments.
072	Chair Johnson	States that they will proceed with the bill. States that the issues raised by Dexter Johnson will need to be addressed on the floor.
081	Rep. Adams	Mentions the work done in the subcommittee on the bill and that ultimately they failed to reach a conclusion. States that he had attempted to determine what each party wanted. States that on the power side the issues are clearer. Mentions that cities want to remain whole. Acknowledges the concern with competitive advantage because competitors won't pay the same fees in local distribution. States that cities want the local distributor to collect the tax "across the board," and they don't not want a lot of "pass through" to the customer.
131	Rep. Adams	States that the electricity distributors didn't want the responsibility of collecting the tax. Requests that the committee deal exclusively with power issues for a while.
144	Rep. Wooten	States that HB 2821 addresses the issues surrounding pilot projects in the electricity industry and that it has the support of all the parties. Requests for comments from the cities.
159	Rep. Adams	Asks if HB 2821 doesn't pass if there is a need for legislation from this committee.
162	Rep. Wooten	Answers yes, that the parties agree that they need something with regard to pilot projects.
170	Rep. Montgomery	Asks "what is broken."
177	Rep. Adams	States that if they don't write a bill dealing with power issues, then the pilot projects will decrease the cities' revenues. Believes that the larger providers will run the pilot projects. States that they need legislation which will create collaboration between the cities, the distributors, and perhaps the generators.
211	Rep. Montgomery	States that he will vote to keep the cities whole. Asks why they haven't done anything.

216	Rep. Adams	Answers that everyone presented their own amendments and that the process became to complicated to manage.
218	Rep. Montgomery	Asks how they can expect to pass a bill in the short amount of time that is left.
220	Rep. Adams	Answers that perhaps the cities will get what they deserve.
229	Rep. Devlin	Suggest that "what is broken" is the pilot projects.
239	Rep. Adams	Mentions receiving mail urging him to vote no on HB 2060. Mentions that franchise fees are West Linn's second greatest resource. Believes that the cities won't have the ability to demand a proxy tax to make up for the decreasing rates and fees brought by competition.
265	Rep. Devlin	Asks why they shouldn't limit themselves to legislation on pilot projects.
267	Rep. Adams	Answers that that is where they are.
269	Rep. Wooten	Supports providing protection for the cities regarding pilot projects. Requests testimony from the IOUs. Requests that they include language from HB 2821.
288	Rep. Taylor	States that her district has public utilities and public cable and yet she hasn't received any requests for legislation. Mentions time restraints. Expresses excitement over the developments in the telecommunications business.
308	Rep. Hill	States that the necessary language is in HB 2821.
340	Heidi Stutzman	City of Salem. Supports legislation dealing with power but not with telecommunications.
349	Robert Wells	City of Salem. Submits written testimony (EXHIBIT B). Supports the notion allowing franchise fees as recovery for utilities' use of rights of way. Talks about the cities' revenue losses. Talks about the maintenance of rights of way requesting that cuts leave them as they were found. Notes the potentially high costs of street costs. Supports addressing the pilot project issue to protect the cities. Notes that utilities have been a stable source of revenue for the city of Salem but that with competition and deregulation there will be more companies with which to deal.
425	Rep. Hill	Asks what percentage of street cuts are made by energy and telecommunications as opposed to those made for sewer and water.
437	Wells	Answers that he isn't sure. Notes that franchise fees are collected from sewer and water services as well and that the entirety of those fees pays for their maintenance.
TAPE 61, A		
010	Rep. Hill	Asks what percentage of energy and telecommunication franchise fees are used to maintain the streets.
012	Wells	Answers that the franchise fees go into the general fund.
020	Rep. Adams	

		Notes the value of the rights of way for the utilities. States that a 5% franchise fee is necessary for maintenance. Notes that no one is arguing for "free access." Asks if the cities would prefer that the committee do nothing.
054	Wells	Answers that something needs to be done with the pilot projects but that they would prefer that nothing further be done.
068	Rep. Wooten	Introduces language from HB 2821.
071	Rep. Hill	Asks who negotiated that language.
074	Rep. Wooten	Answers cities and large industrial users, noting IOUs' absence.
078	Michael Jordan	City Manager, City of Canby. Submits written testimony (EXHIBIT C). States that cities should be compensated for extraordinary use of the rights of way. States that cities should be allowed to determine how rights of way are used, how they are entered, and the costs of degradation. States that charges should be paid by the provider and not by the consumer. States that it is analogous to renting a building, and that, in the business world, such costs would be born by a corporation.
140	Rep. Adams	Counters that all costs of business are ultimately passed on.
144	Jordan	States that the legal responsibility for payment should rest with the provider and not with the consumer.
155	Rep. Hill	Disagrees. States that what they are dealing with is a "tax" and that giving it another name is inaccurate.
168	Rep. Montgomery	Asks if renting a building is a tax.
170	Rep. Hill	Answers that legislative counsel considers this a tax.
177	Dexter Johnson	Deputy Legislative Counsel. Answers that renting a building is not considered a tax.
182	Rep. Montgomery	Asks if renting land is a tax.
184	Johnson	Answers that renting land wouldn't be considered a tax.
187	Chair Johnson	Asks if franchise fees are considered a tax.
189	Johnson	Answers that with franchise fees the utilities are required in statute to pay the fee and thus have no choice, and that conversely, with property rental, there is the option of walking away and renting elsewhere.
199	Rep. Montgomery	Notes that not all attorneys agree.
202	Rep. Adams	States that this discussion is a perfect example of how the subcommittee was bogged down by definitions.
210	Jordan	States that cities should have the ability to treat all providers equally.

217	Rep. Wooten	Asks how such equal treatment can be attained.
223	Jordan	Defers to Sarah Hackett.
228	Sarah Hackett	League of Oregon Cities. States that they can't guarantee equal treatment from city to city, but that within each city they can guarantee that each provider is treated equally.
239	Jordan	Recommends short-term legislation for pilot projects with a design for keeping cities whole. Recommends that a long-term approach be developed during the interim. Requests that the city's authority in this matter be left intact, stating that competition will increase the need for management.
269	Jane Cummins	League of Oregon Cities. States that pilot projects for direct access will begin in 1998, and that whole communities will be designated for those projects. States that that will cause a decrease in those cities' revenue which the league will attempt to prevent. Agrees that there is a need for pilot projects.
314	Rep. Wooten	Asks for comments on the language in HB 2821 (EXHIBIT D).
325	Cummins	Answers that the language was agreed to by large industrial users and the league, and that there were suggestions from utilities. Mentions discussions with the utilities. Notes that the language was amended to fit into the bill. States that they are looking at original intent to avoid conflicts.
355	Rep. Wooten	States that the committee has been waiting for an agreement for a long while, and that now the time is very late.
369	Chair Johnson	Asks if they have been working with utility groups.
371	Cummins	Answers that they have been working with PGE.
373	Chair Johnson	Asks about PP&L.
375	Cummins	Answers that she believes PGE has been talking with PP&L. States that they are prepared to complete their collaborative work today.
398	Rep. Wooten	Asks if the language will be completed today.
400	Cummins	Answers that the goal is to provide the language today.
403	Rep. Hill	Asks if the intention to keep cities whole could violate state laws regarding franchise fee percentages when a consumer chooses to receive energy from a third provider who provides energy at a reduced cost.
TAPE 60, B		
055	Rep. Adams	Mentions the weight-mileage tax on highways and the evasion of that tax. Agrees that they have a "nexus." States that incumbent providers are being charged a proxy tax and being asked to "eat it."

088	Rep. Hill	Suggests that this is a "red herring." Notes that energy providers need to be registered with the PUC. Notes that the cities rejected the proposal that the Department of Revenue collect the fees, and that they now claim they can't manage collecting the fees.
105	Rep. Montgomery	Requests hearing from power companies.
107	Rep. Wooten	Asks if they will provide language as soon as they have it.
109	Cummins	Answers yes.
115	Denise McPhail	Portland General Electric. Notes discussions with the cities on HB 2821. States that the bill establishes a "proxy tax on a proxy amount" and that it taxes PGE's distribution unfairly. Gives specific example. Notes that large customers have agreed to the language. States that it is unfair to tax customers for something for which the customers aren't paying anyone.
170	Jim Anderson	Pacificorp. States that the system isn't broken but that "it is starting to crack." States that pilot projects are tests of what will happen with deregulation and poses the question of why they would mess with the results of that test. Notes that there will be a tax rate increase with the proxy tax on pilot projects and that it will require a supermajority vote.
216	Rep. Hill	Asks if they would have to pay more than is determined by contract.
218	Anderson	Answers yes.
223	Chair Johnson	Adjourns meeting at 9:52 AM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3500, LC amendments, staff, 13 pp.

B - HB 3500, written testimony, Robert Wells, 2 pp.

C - HB 3500, written testimony, Mike Jordan, 3 pp.

D - HB 3500, LC amendments, staff, 3 pp.