

HOUSE COMMITTEE ON COMMERCE

June 12, 1997 Hearing Room 343

9:00 AM Tapes 71 - 72

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

Coben Tistadt, Administrative Support

MEASURE/ISSUES HEARD:

SB 824A - Public Hearing and Work Session

HB 3500 - Work Session

SB 677 - Work Session

SB 1109A - Public Hearing and Work Session

SB 815A - Public Hearing and Work Session

SB 77 - Public Hearing and Work Session

SB 78 - Public Hearing and Work Session

SB 79 - 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 71, A		
004	Chair Johnson	Opens meeting at 9:01 AM. Opens public hearing on SB 824A.
<u>SB 824A - PUBLIC HEARING</u>		
031	Joe Brewer	Administrator of the Builder's Code Division. Neutral on the bill. States that it puts in statue language currently in rule.
036	Rep. Wooten	Asks about a conceptual amendment placing a section of SB 823 into the bill.
040	Brewer	Answers that he isn't familiar with conceptual amendments.
044	Julie Neburka	Committee Administrator. Refers to -A5 amendments (EXHIBIT A).
049	Rep. Wooten	Asks if the witness has seen the amendments. Asks for his opinion.
052	Brewer	Answers that he hasn't. (Reads the amendments). Explains that building officials would be able to assess fees for site specific plan reviews.
062	Rep. Wooten	Asks if that isn't the standard today.
066	Brewer	Answers that they aren't always recovering full costs.
066	Rep. Wooten	Asks if a change in statute is necessary.
069	Brewer	Reports that his department didn't have a problem with the section in SB 823.
073	Rep. Wooten	Refers to line 21, asking how the amendments affect what is already in the bill.
081	Brewer	Answers that he would like more time to review the impact of the amendments.
084	Bill Cross	Representing the Building Officials Association. States that the amendments allow reimbursement for supplemental plan review costs when a master plan has been approved by the Building Codes Division and is being employed across the state. Notes that the process to increase fees would change. States that future fee increases would be permitted with enterprise or dedicated fund programs.
106	Rep. Wooten	Asks who he is representing.
108	Cross	Answers the Building Officials Association.
112	Rep. Wooten	Asks where in statute it prohibits what is suggested in the amendments.
112	Cross	

		Answers that there is no prohibition, but that with manufactured homes local officials make supplemental plan reviews and are inadequately reimbursed.
122	Brewer	Notes that the issue has been brought to the division's attention and that they have attempted to deal with the issue.
129	Chair Johnson	Asks Mr. Cross if Mr. Brewer's reply is satisfactory.
133	Cross	Prefers statutory change. Cites the Senate's support for the amendments.
138	Rep. Montgomery	Asks why it wasn't included on the Senate side.
142	Cross	Answers that it was in a separate bill, SB 823.
148	Brewer	Corroborates Mr. Cross' comments.
153	Rep. Wooten	Suggests that the amendments would be gratuitous.
164	Rep. Adams	Asks what the bill does.
171	Brewer	States that the bill puts into statute what is in rule, i.e., that fee increases be submitted to the department for review.
180	Chair Johnson	Asks if that rule is already in place.
183	Brewer	Answers yes, that local municipalities are required to submit proposed fee increases for review.
190	Chair Johnson	Asks if the bill would change the process.
192	Brewer	Answers no.
194	Rep. Wooten	States that the bill allows cities to exceed the state's fee structure. Expresses support for the bill.
200	Chair Johnson	Opens work session on SB 824A.
<u>SB 824A - WORK SESSION</u>		
208	Rep. Adams	Asks what the amendments do.
211	Cross	Answers that they allow officials to assess the costs of supplemental plan reviews on master plans.
217	Rep. Adams	Asks if the legislature has disapproved the use of master plans.
220	Cross	Answers that master plans are currently allowed in statute.
225	Brewer	Notes the usefulness of master plans.
236	Rep. Adams	Asks if it isn't possible to collect fees.
242	Brewer	Answers that they can't collect the fees that they feel are reasonable.
246	Rep. Adams	Asks if the director needs to approve the fees.
250	Brewer	States that without the -A5 amendments that is true.

251	Rep. Devlin	Asks if the League of Oregon Cities has an opinion.
256	Jane Cummins	League of Oregon Cities. States that they supported the amendments in SB 823.
268	Bob Cantine	Association of Oregon Counties. States that site-specific inspections should allow for full recovery of costs.
277	Rep. Wooten	Asks why a statutory allowance is necessary when they aren't prohibited today.
287	Cummins	Answers that they can charge fees but not reasonable fees. Suggests that fees are currently too low.
295	Rep. Montgomery	Suggests that it is good in general to expand the statutes because of term limits.
311	Rep. Johnson	MOTION: Moves to ADOPT SB 824A-5 amendments dated 6/12/97.
317		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES .
320	Rep. Adams	MOTION: Moves SB 824A to the floor with a DO PASS AS AMENDED recommendation.
326		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES . REP. DEVLIN will lead discussion on the floor.
327	Chair Johnson	Opens work session on HB 3500.
<u>HB 3500 - WORK SESSION</u>		
335	Chair Johnson	States that he intends to "gut" the bill and insert conceptual amendments. States that, under the conceptual amendments, any privilege or franchise fee imposed by the cities would apply only to residents of the cities and not to residents of the counties. States that, under the conceptual amendments, fees would have to be shown on the bill.
348	Rep. Montgomery	Notes the implication that fees aren't being disclosed.
358	Chair Johnson	Mentions reasons why only city residents should pay.

363	Rep. Wooten	Notes that urban growth areas would be exempt from the tax despite the service to them.
370	Chair Johnson	States that it is inequitable for county residents to pay these fees.
377	Rep. Wooten	Notes that urban growth areas are sometimes more densely populated than the cities.
385	Chair Johnson	Notes that county's are prohibited from charging fees.
400	Rep. Whelan	Expresses opposition to the conceptual amendments. Notes that city residents currently subsidize telecommunications services to rural areas in the name of universal service. Notes that the requirement to show the fee on the bill makes it simply a tax, and that the utilities won't pay for the rent of the right of way but rather their customers.
TAPE 72, A		
016	Rep. Hill	States that the conceptual amendments does nothing to change the amount that can be collected under existing franchise laws. States that the proposed amendments changes legislation from '89 which socialized franchise fees into rates.
031	Rep. Hill	MOTION: Moves to ADOPT the amendments offered by Chair Johnson to HB 3500 and to remove the rest of the bill.
032	Rep. Devlin	States that he can't support the amendments. Notes that in his district they use municipal services and that franchise fees go for those services.
043	Chair Johnson	States that that is a separate issue.
045	Rep. Wooten	Expresses concern for moving conceptual amendments, noting far-reaching policy implications and that cities won't be kept "whole." Notes time constraints and a lack of collaborative thinking.
066	Rep. Adams	Mentions reasons why good legislation hasn't resulted. Talks of "caps" on electricity franchise fees. Expresses concern that the amendments would "short" the cities. States that he needs to know what will happen to cities.
104	Rep. Hill	Responds that the amount that cities collect will not change. States that cities will not be fiscally affected.
110	Rep. Whelan	Clarifies that the fees would be socialized solely into the city citizens' bills.
117	Rep. Hill	Asks about the possibility that a central office is located outside city limits.
121	Rep. Whelan	States that 96% of the central offices are located within city limits.
126	Chair Johnson	Withdraws motion and closes work session.

129	Rep. Wooten	Asks about the -7 amendments (EXHIBIT B), listing the parties in support of the amendments.
132	Chair Johnson	States that the amendments are illegal in that they exceed statutory limits.
137	Rep. Wooten	Comments that the process has been grossly unfair.
140	Chair Johnson	Opens work session on SB 677.
<u>SB 677 - WORK SESSION</u>		
154	Julie Neburka	Committee Administrator. Mentions -1 amendments (EXHIBIT C) and a letter from legislative council (EXHIBIT D).States that the amendments were requested by Rep. George Eighmey.
165	Chair Johnson	States that the three representatives on the floor who are attorneys proposed the amendments.
172	Rep. Beyer	Expresses opposition to the amendments.
174	Rep. Hill	MOTION: Moves to ADOPT SB 677-1 amendments dated 6/11/97.
177		VOTE: 8-1 AYE: 8 - Adams, Devlin, Hill, Montgomery, Taylor, Whelan, Wooten, Johnson NAY: 1 - Beyer
	Chair	The motion CARRIES.
183	Rep. Hill	MOTION: Moves SB 677 to the floor with a DO PASS AS AMENDED recommendation.
186		VOTE: 8-1 AYE: 8 - Adams, Devlin, Hill, Montgomery, Taylor, Whelan, Wooten, Johnson NAY: 1 - Beyer
	Chair	The motion CARRIES. CHAIR JOHNSON will lead discussion on the floor.
198	Chair Johnson	Opens public hearing on SB 1109.
<u>SB 1109A - PUBLIC HEARING</u>		

205	Chair Johnson	States that the governor will sign the bill if the Board of Pharmacy designation is removed.
225	Ed Patterson	Oregon Association of Hospitals and Health Systems. Mentions concerns with licensing boards. States that the Pharmacy Board licenses both individuals and the pharmacies themselves. Supports the amendments.
241	Keith Burns	Expresses concern with optometry elements in the bill. Expresses general support for the bill. Suggests that this bill should be passed after SB's 77, 78, and 79 are passed because it obviates them.
263	Chuck Pearson	Board member of the State Board of Examiners for Engineering and Surveying. Expresses the board's support. Notes work on the concept for two years.
271	Rep. Montgomery	Asks if the boards will select whoever they want. Suggests that it is "the fox guarding the chicken coop." States that the governor should appoint and the Senate should approve.
280	Rep. Wooten	Concurs with Rep. Montgomery.
289	Rep. Hill	Mentions similar bill which he introduced with a sunset clause allowing periodic review to see if the process worked. Suggests including a mechanism to review the process.
303	Chair Johnson	States that there is a sunset clause.
304	Rep. Hill	Responds that 2002 is too late.
312	Rep. Adams	Mentions that the boards determine their own memberships already. States that he doesn't see any danger. Notes that the boards are funded with fees.
354	Chair Johnson	Opens work session on SB 1109A.
<u>SB 1109A - WORK SESSION</u>		
364	Rep. Hill	MOTION: Moves to AMEND SB 1109A by removing all references to the Board of Pharmacy in the bill.
376	Rep. Adams	Asks why they are excluding the Board of Pharmacy.
377	Chair Johnson	Answers that otherwise the governor will veto the bill.
383	Rep. Adams	Notes disagreement with the governor on a number of issues. States that a veto would be acceptable.
385		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES .

395	Rep. Wooten	States that her vote to adopt the amendments was made in deference to the governor. Expresses opposition to the bill.
400	Rep. Beyer	MOTION: Moves SB 1109A to the floor with a DO PASS AS AMENDED recommendation.
402	Chair Johnson	VOTE: 4-5 AYE: 4 - Adams, Beyer, Hill, Taylor NAY: 5 - Devlin, Montgomery, Whelan, Wooten, Johnson
	Chair	The motion FAILS.
TAPE 71, B		
005	Chair Johnson	Opens public hearing on SB 815A.
<u>SB 815A - PUBLIC HEARING</u>		
015	Stephen Kafoury	Representing the Professional Land Surveyors of Oregon. States that they are awaiting amendments from legislative counsel. States that the bill is a compromise between land owners and surveyors.
028	Pete Test	Representing the Oregon Farm Bureau Federation. Submits writtent testimony (EXHIBIT E). Agrees that the bill is a compromise bill. States that the agriculture and landowner community will meet with the surveyors to set up a group to deal with problems.
037	Chair Johnson	Opens work session on SB 815A.
<u>SB 815A - WORK SESSION</u>		
039	Rep. Beyer	MOTION: Moves to ADOPT SB 815A-4 amendments dated 6/12/97 (EXHIBIT F) and that the measure be FURTHER AMENDED on page 1, line 5, by changing "location" to "presence".
042		VOTE: 9-0
	Chair	Hearing no objection, declares the motion CARRIED.
047	Rep. Beyer	MOTION: Moves SB 815A to the floor with a DO PASS AS AMENDED recommendation.
048	Chair Johnson	VOTE: 5-1 AYE: 5 - Beyer, Devlin, Taylor, Whelan, Johnson

		NAY: 1 - Hill EXCUSED: 3 - Adams, Montgomery, Wooten
	Chair	The motion CARRIES. REP. BEYER will lead discussion on the floor.
058	Chair Johnson	Asks the member of the Board of Optometry if he needs SB's 77, 78, and 79.
059	David Plunkett	Board of Optometry. Answers yes.
060	Chair Johnson	Opens public hearing on SB 77.
<u>SB 77 - PUBLIC HEARING</u>		
063	Plunkett	Submits written testimony (EXHIBIT G). States that the bill removes the Board of Optometry from the Health Division. Notes that the division doesn't perform any services for the board. Mentions that the bill allows the board to contract with whomever.
075	Chair Johnson	Asks if the bill does the same thing as SB 1109.
076	Plunkett	Answers yes.
077	Chair Johnson	Asks if they wish to become an independent board.
079	Plunkett	Answers that they are an independent board minus accounting services previously received by the Health Division. Notes no opposition in the Senate.
082	Keith Burns	Representing Lenscrafters and other optical stores leasing space to optometrists. States that passing the bill would be inconsistent with not passing SB 1109. States that the bill "casts them (the board) lose without accountability to anybody." Notes that the governor intends to review all licensing boards during the interim.
099	Rep. Beyer	Asks who he represents.
102	Burns	Responds that he represents Lenscrafters and other optical stores..
105	Chair Johnson	Opens work session on SB 77.
<u>SB 77 - WORK SESSION</u>		
110	Rep. Hill	

		MOTION: Moves SB 77 to the floor with a DO PASS recommendation.
116		VOTE: 3-4 AYE: 2 - Devlin, Hill NAY: 5 - Adams, Beyer, Taylor, Whelan, Johnson EXCUSED: 2 - Montgomery, Wooten
	Chair	The motion FAILS.
124	Chair Johnson	Opens public hearing on SB 78.
<u>SB 78 - PUBLIC HEARING</u>		
130	Rep. Beyer	Explains that he voted no on SB 77 because of his concern with the board's unlimited autonomy.
133	Rep. Devlin	Explains that he voted yes on SB 77 because the bill retains the provision that appointments be made by the Governor with confirmation from the Senate.
140	Plunkett	Submits written testimony (EXHIBIT H). States that the bill expands the rule-making authority of the board to include establishment of license terms and eliminates the requirement that one-half of civil penalties be paid to the county school fund. Expresses desire to link continuing education period to licensing period, noting that the periods are currently different.
156	Burns	Notes that, under the bill, the board would not be required to increase fees through a public process. Proposes conceptual amendments.
168	Chair Johnson	Agrees with the concern.
170	Rep. Beyer	Asks if Mr. Burns raised the same concerns in the Senate.
172	Burns	Answers that he wasn't present.
175	Plunkett	States that the board can't arbitrarily increase fees.
179	Chair Johnson	Reads the staff measure summary, noting that it seems to allow the establishment of new fees.
180	Plunkett	Disagrees with the summary.
182	Chair Johnson	Refers to page 2, line 36, stating that it allows the board to establish its own fee structure.
188	Plunkett	States that in statute it determines that the board can increase fees with the approval of the Department of Administrative

		Services, and that with SB 333 from '95, all fee increases must get the approval of the legislature.
192	Chair Johnson	Asks if the board needs the bill.
193	Plunkett	Answers yes, that need the change in their calendar.
194	Rep. Adams	Clarifies the board's request.
197	Plunkett	Agrees with Rep. Adams' clarification.
205	Rep. Adams	Notes that the approval process for fee increases is dealt with in separate statutes.
207	Rep. Beyer	Asks staff if the boards need to come to the legislature for fee increases.
213	Burns	Objects to the boards being allowed to set their own license fees.
220	Rep. Adams	Suggests that DAS brings the fee increase proposals to the Ways and Means committee.
224	Rep. Hill	Refers to page 2, lines 3-4. Agrees that legislative approval is required.
228	Chair Johnson	Opens work session on SB 78.
<u>SB 78 - WORK SESSION</u>		
232	Rep. Hill	MOTION: Moves SB 78 to the floor with a DO PASS recommendation.
236	Rep. Adams	Clarifies that individual budgets need legislative approval and that those budgets are created by the amount of the fees.
240		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Montgomery, Wooten
	Chair	The motion CARRIES . REP. TAYLOR will lead discussion on the floor.
250	Chair Johnson	Opens public hearing on SB 79.
<u>SB 79 - PUBLIC HEARING</u>		
251	Plunkett	Submits written testimony (EXHIBIT I). States that they are asking that the two-year education period be eliminated. States that the bill allows the board to decide "hours," noting that only one other health board has reference to "hours" in statute.

		Suggests that the professionals on the board know best what the requirements are to be.
264	Burns	Mentions the -2 amendmments to the bill (EXHIBIT J). Suggests that the board doesn't "know best" but rather the licensees. States that the amendments require notification and a public hearing with licensees.
280	Rep. Hill	Suggests that the requirement to notify every licensee is onerous.
297	Burns	Mentions frequent board mailings and public hearings, stating that it isn't an additional burden.
307	Plunkett	States that they already do it as part of their procedures.
314	Rep. Adams	States that the two parties should have come to an agreement on their own time.
331	Chair Johnson	Opines that the amendments aren't needed. Opens work session on SB 79.
<u>SB 79 - WORK SESSION</u>		
335	Rep. Hill	MOTION: Moves SB 79 to the floor with a DO PASS recommendation.
340	Rep. Beyer	Notes that boards are often self-serving. States that he doesn't support increasing the power of boards over their licensees.
349		VOTE: 6-1 AYE: 6 - Adams, Devlin, Hill, Taylor, Whelan, Johnson NAY: 1 - Beyer EXCUSED: 2 - Montgomery, Wooten
	Chair	The motion CARRIES. REP. TAYLOR will lead discussion on the floor.
364	Rep. Devlin	Changes vote on SB 677 to no.
366	Chair Johnson	Declares that the committee is closed.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 824A, LC amendments, staff, 2 pp.

B - HB 3500, LC amendments, staff, 5 pp.

C - SB 677, LC amendments, staff, 1 p.

D - SB 677, letter, staff, 1 p.

E - SB 815A, written testimony, Pete Test, 1 p.

F - SB 815A, LC amendments, staff, 1 p.

G - SB 77, written testimony, David Plunkett, 1 p.

H - SB 78, written testimony, David Plunkett, 1 p.

I - SB 79, written testimony, David Plunkett, 1 p.

J - SB 79, LC amendments, staff, 1 p.