

**HOUSE COMMITTEE ON COMMERCE**

May 13, 1997 Hearing Room E

5:00 P.M. Tapes 38 - 41

**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:**

Keith Putman, Administrator

Timaree Whitty, Administrative Support

**MEASURE/ISSUES HEARD:**

SB 125 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 38, A		
003	Chair Johnson	Opens meeting at 5:03 p.m. Opens public hearing on SB 125.
<u>SB 125</u> <u>PUBLIC</u> <u>HEARING</u>		

020	Cecil Monroe	Administrator, Division of Finance and Corporate Securities, Department of Consumer and Business Services. Submits written testimony and section-by-section analysis (EXHIBITS A and B). States that the bill attempts to clarify a widely misunderstood provision of the Bank Act. Mentions past meetings on the subject, stating that the task is "enormous."
061	Ken Sherman, Jr.	Legal Counsel, Oregon Bankers Association. Submits written testimony (EXHIBIT C). Talks about revolutions in the banking industry occurring in the last 25 years. States that Oregon has been a leader in interstate banking. States that the time is right for fundamental changes in legislation
111	Sherman	Continues testimony, stating that the bill attempts to modernize the Bank Act. Talks about the prosperity of community banks and the advances in interstate banking. States that the bill tries to reduce unnecessary paperwork for the banks.
133	Rep. Adams	Asks if it will be easier to follow his testimony or the section-by-section analysis.
135	Sherman	Responds he feels it would be easier to follow his testimony. Describes ORS 706. Notes problems with definitions.
185	Sherman	Continues comments on definitions.
235	Sherman	Continues comments, stating that the bill neatly consolidates all definitions. States that the remainder of the bill deals with the supervision of banks by the Department of Consumer and Business Services. Notes that the bill allows the director to review out-of-state institutions, and to suspend or revoke authority when appropriate.
251	Rep. Hill	Asks for an example of a non-Oregon bank.
253	Sherman	Answers that a non-Oregon bank is one chartered in another jurisdiction and is doing business in the state, e.g., Wells Fargo.
260	Rep. Taylor	Asks why the witness skipped from section 11 to section 27.
264	Sherman	Answers that there are 560 sections of the bill and that the sections he will skip over make non-substantive changes.
270	Rep. Devlin	Asks about section 23, noting that the credit unions have concerns regarding it.
290	Chair Johnson	Assures Rep. Devlin that the committee will address those concerns.
296	Rep. Hill	Asks if Oregon currently has any authority to regulate a Wells Fargo Bank.
300	Sherman	Answers that its authority is inadequate.
318	Rep. Adams	Asks if the term "candlefoot power" relates to the use of ATM machines
328	Sherman	Answers yes, stating that the bill simply moves the definition to the chapter to contain all the definitions.
330	Rep. Adams	Asks about penalty increases.

333	Sherman	Answers that those penalties haven't been increased in twenty years and that bill increases them tenfold.
345	Rep. Adams	Requests that potentially controversial issues be mentioned in the testimony.
352	Sherman	Responds that that is a substantive change and that he mistakenly skipped it. Adds that the penalties are rarely imposed.
365	Monroe	States that the penalties were set high in order to ensure compliance and that they weren't designed to generate revenue.
409	Rep. Hill	Asks for the most recent example of the department "taking over" a bank in Oregon.
<b>TAPE 39, A</b>		
000	Monroe	Answers that on December 14 of 1987 they took over the Lewis & Clark State Bank in Lake Oswego.
006	Rep. Adams	Asks if the witness could identify the bill's fee increases.
018	Chair Johnson	Asks that Mr. Monroe identify the increases while Mr. Sherman continues testifying in the interest of time.
024	Sherman	Continues testimony, describing ORS 707. States that the bill permits the chartering of stock-savings banks. Talks about changes in the application process and requests for stock redemption.
069	Rep. Taylor	Asks what currently constitutes a quorum at stock-holder meetings.
070	Sherman	Answers a simple majority.
081	Rep. Beyer	Asks the witness to talk about Section 90.
088	Sherman	Answers that the section expands the activities which the committee may not do without "full board action."
129	Rep. Hill	Asks about the affect of Section 92 and its moving away from taking an oath.
136	Sherman	Responds that taking an oath was a formality and that the section sets standards for reliable information. States that the bill allows for consideration of the welfare of the community and for the welfare of employees, along with the typical consideration for the stockholders, when considering the possible sale of a bank.
160	Rep. Hill	Asks if there have been lawsuits made by stockholders against bank directors due to the fact that they didn't sufficiently look into the social aspects of a situation.
170	Sherman	Responds that the section doesn't mandate consideration of social aspects but merely provides the opportunity. Adds that the taking of an oath doesn't provide the basis for a lawsuit but rather a failure to perform pecuniary functions.
183	Monroe	States that he hasn't seen one lawsuit made against a director.
188	Rep. Adams	Asks what subsections 1 and 2 of section 92 say.
199	Sherman	

		Answers that a director isn't acting in good faith if he/she has information which contradicts the permitted sources of information but fails to disclose it.
214	Rep. Hill	Asks for an explanation of why the bill allows Oregon stock-savings banks to be established.
224	Sherman	Explains that the bill does away with the requirement that banks start out as a non-stock bank before they are allowed to convert to a stock-savings bank.
250	Rep. Adams	Mentions the fines relating to a director failing to appear at a meeting.
261	Chair Johnson	Explains that the fines haven't been increased in many years.
271	Sherman	Continues testimony, discussing general regulations for institutions.
288	Rep. Hill	Asks if the regulations being discussed are for all institutions.
290	Sherman	Answers no, referring to the definition of an institution in the bill.
298	Rep. Hill	Asks for an example.
300	Sherman	Answers Commercial Bank in Salem. Notes that a banking institution is different than an institution as defined in the bill. States that many of the provisions of the act have been reorganized in the bill but are in substance the same.
350	Sherman	Continues testimony on general regulations of institutions. Discusses the definitions relating to loan limitations.
400	Rep. Hill	Asks if any of the amounts in section 163 are changed.
408	Sherman	Answers that he doesn't believe they have been changed but he can't remember for sure.
<b>TAPE 38, B</b>		
002	Rep. Wooten	Asks about the differences between the bill's provisions relating to disposition of deposit upon death of depositor and the provisions proposed by the Oregon Credit Union.
005	Chair Johnson	Notes that the credit union's bill is in trouble in the Senate, and that they don't have any problem with this bill.
020	Rep. Wooten	Asks if credit unions have no issues with the bill.
022	Chair Johnson	Answers that they don't.
027	Sherman	States that they attempted to answer the concerns of the credit unions.
032	Rep. Adams	Asks if there is any change regarding obligations secured by documents.
050	Sherman	Answers that there are no changes.
057	Rep. Adams	Mentions that the bill appears to make many changes.
066	Sherman	

		States that many sections of the bill are identical to current statute but have been rearranged.
076	Rep. Adams	Asks for explanation of the numbers.
081	Monroe	Answers that these figures have come into being with the evolution of time. Briefly goes into the history of the industry.
124	Sherman	Continues testimony on changes made to ORS 708.
138	Rep. Adams	Asks if the checks on intoxicated persons is currently in law.
140	Sherman	Answers yes.
142	Rep. Adams	Asks how frequently they are sued.
144	Sherman	Guesses that the application of that provision would be extremely rare.
146	Rep. Hill	Asks if this provision would apply to elderly persons whose mental faculties are in question.
153	Monroe	Answers no.
170	Sherman	Concludes testimony on ORS 708.
209	Rep. Montgomery	Asks why emus are considered livestock.
211	Sherman	Answers that that was existing law. Begins testimony on ORS 709 relating to trust companies and trust business. States that the provisions of the bill apply to all trust companies and not merely those chartered under Oregon law.
241	Rep. Adams	Asks if there is any new law in sections 230-234 relating to trust companies.
260	Sherman	Answers that the wording might be different but that the substance is basically the same. Notes that no one has come forward in opposition.
284	Frank Brawner	Oregon Bankers Association. Supports the bill, noting that each bank in the state received a draft of the bill.
305	Monroe	States that there is new law in ORS 709. Notes that current law is "loose." Mentions changes in the regulation of trust companies.
338	Rep. Adams	Asks who is looking out for the interests of the customer.
360	Monroe	States that he fervently believes that there is nothing in the bill which will hurt the customer.
<b>TAPE 39, B</b>		
006	Rep. Devlin	Mentions a previous bill relating to the internal monitoring of loan procedures for which the legislature is being "lambasted," noting that there are no guarantees in this industry.
010	Rep. Taylor	States that she appreciates Rep. Adams' concerns.
015	Monroe	States that he recognizes and appreciates their role as legislators.
027	Chair Johnson	Comments that one thing he has learned as a legislator is who to trust. Expresses trust in Mr. Brawner and in the Oregon Bankers Association.

034	Brawner	Adds that national banks have also looked at the bill, noting that the wouldn't want state banks to have any unfair advantage.
047	Rep. Montgomery	Notes that the Senate passed the bill. States that nothing is permanently in law but can be changed every two years.
056	Rep. Hill	States that Mr. Montgomery's previous comment regarding emus raised a serious issue. Asks how many sessions the Senate looked at the bill.
063	Monroe	Responds that there was one public hearing that ran for two and a half hours and one work session that ran a half of an hour.
067	Sherman	Reiterates that the laws relating to emus are unchanged. States that current law requires 30 day notice from a depositor to withdraw \$500 and that the bill adjusts the amounts tenfold for inflation.
081	Rep. Hill	Asks if there is a provision allowing a depositor to receive money without a waiting period and without a penalty.
090	Sherman	Suggests that those issues are best left to the competitive marketplace. States that the federal laws requiring notice is left over from the bank runs of the 1930s.
103	Rep. Hill	Asks if the state is out of step with the federal requirements.
104	Monroe	Answers that he will need to get back to Rep. Hill with that information.
111	Sherman	Continues testimony on changes made to ORS 711.
161	Sherman	Continues testimony. Talks about mergers between in-state and out-of-state banks.
194	Rep. Hill	Asks what is an insured stock institution.
196	Sherman	Answers that an insured institution insures deposits under the FDIC Act, and that an insured stock institution is an insured institution that issues stocks.
209	Rep. Hill	Asks if all Oregon banks are insured by the FDIC.
211	Sherman	Answers yes.
214	Rep. Hill	Asks for an Oregon stock bank can merge with any institution because of federal law.
216	Sherman	Answers no, that the merger would occur because of state provisions.
231	Rep. Hill	Asks what institution would be ineligible to merge.
235	Sherman	Answers that he can't think of one, noting the intention to open up the opportunities for mergers.
240	Rep. Hill	Asks if the dissenting stockholders' rights are the same as those given in Oregon corporations.
245	Sherman	Answers that the typical procedure is for the bank to buy back the dissenter's stock. Describes the process for determining the stock's value.
255	Rep. Hill	

		Asks the witness to identify who is affected by each chapter as he goes.
260	Sherman	Continues testimony on ORS 713, relating to out-of-state and extra-national institutions.
310	Sherman	Continues testimony. Mentions limitations made to the power of state banks in federal law.
359	Rep. Hill	Asks if there is the ability to supervise an Oregon bank's activities in another state.
362	Sherman	Answers yes, stating that an Oregon bank will have the same powers no matter which state it is operating in.
373	Monroe	Comments that the home-state regulators are better positioned to regulate their own banks.
385	Sherman	Continues testimony on ORS 713.
<b>TAPE 40, A</b>		
020	Rep. Wooten	Asks if section 310 would be the appropriate section to be amended in regard to regulation of ATM fees.
025	Sherman	Answers that that would be the appropriate proximity. Continues testimony on ORS 713.
054	Monroe	Interjects that the fee in Section 323 was \$100 and is being changed to \$1,000. Expresses a willingness to draft a compilation of the fee increases in the bill and to provide that listing to the committee for their review.
075	Sherman	Continues testimony on ORS 713.
090	Rep. Hill	Asks if there was another bill addressing these issues.
092	Brawner	Answers that there was introduced Mr. Barrows.
096	Dave Barrows	Oregon League of Financial Institutions. States that they decided to consolidate that bill into SB 125.
108	Rep. Hill	States that he would like some information regarding that decision.
110	Sherman	Continues testimony on ORS 716, relating to mutual savings bank and stock savings bank. States that the last 200 sections of the bill amend statutes not included in the Bank Act to conform old terminology with new terminology.
160	Sherman	Introduces the -A8 amendments (EXHIBIT D), stating that they mostly deal with definitions with one substantive change relating to the formation of mutual bank holding companies.
176	Chair Johnson	Asks if the -8 amendments are the final set of amendments.
186	Keith Putman	Committee Administrator. States that the -A8 amendments replace the -A6 and the -A7 amendments.
190	Rep. Wooten	Expresses appreciation for the witnesses' presentation on the bill.
199	Rep. Adams	Asks if the bill talks about credit unions.
205	Sherman	

		Answers that credit unions are subsumed under the term financial institution.
213	Rep. Adams	Asks if the bill will affect current law regarding to credit unions.
225	Monroe	States that there are general provisions which affect credit unions. Assures Rep. Adams that there is nothing in the bill which adversely affects credit unions.
238	Rep. Adams	Questions using terms like ATM because of technological advances.
252	Sherman	Mentions an old term no longer used.
264	Rep. Hill	Asks if the bill incorporates language helping to regulate the delivery of banking services by an Oregon bank worldwide.
274	Sherman	Believes that they haven't addressed all the possible issues relating to internet banking. States that that wasn't their focus. Notes that new technologies won't change the fundamental nature of transactions.
294	Chair Johnson	Asks if Mr. Monroe has any amendments.
295	Monroe	Answers no.
311	Rep. Richard Devlin	State Representative, House District #24. Introduces the -A3 and the -A4 amendments (EXHIBITS E and F). Notes that his and Rep. Prozanski's bills relating to ATM surcharges haven't been given public hearings and so they are attempting to incorporate those bills in SB 125.
361	Rep. Devlin	Continues testimony. Mentions similar bills presented in other states.
TAPE 41, A		
000	Rep. Devlin	Continues testimony. States that the -A3 amendments require that all fees be imposed at the rate of a single fee. Notes that currently there is no limit on the number of times a consumer can be charged. States that the -A4 amendments address the issue of disclosure. Notes that the situation for disclosure in the state isn't very good.
025	Rep. Floyd Prozanski	State Representative, House District #40. Introduces the -A5 amendments (EXHIBIT G). States that the -A5 amendments prohibit ATM surcharges on a machine not owned by the customer's bank. Notes the similarities with the -A3 amendments, stating there are slight differences in language and that they wanted to give the committee the choice between the two.
065	Chair Johnson	Adjourns meeting at 7:28 p.m.

Submitted By, Reviewed By,

Coben Tistadt, Keith Putman,



**Administrative Support Administrator**

**EXHIBIT SUMMARY**

**A - SB 125A, written testimony, Cecil Monroe, 2 pp.**

**B - SB 125A, section-by-section analysis, Cecil Monroe, 76 pp.**

**C - SB 125A, written testimony, Ken Sherman Jr., 33 pp.**

**D - SB 125A, LC amendments, staff, 3 pp.**

**E - SB 125A, LC amendments, Rep. Devlin, 1 p.**

**F - SB 125A, LC amendments, Rep. Devlin, 1 p.**

**G - SB 125A, LC amendments, Rep. Prozanski, 1 p.**