

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE

March 13, 1997 Hearing Room 343

9:30 AM Tapes 22 - 23

MEMBERS PRESENT:

Rep. Jim Hill, Chair

Rep. Ron Adams

Rep. Eldon Johnson

Rep. Tom Whelan

Rep. Cynthia Wooten

STAFF PRESENT:

Julie Neburka, Administrator

Coben Tistadt, Administrative Support

MEASURE/ISSUES HEARD:

HB 2060 - 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 22, A		
003	Chair Hill	Opens meeting at 9:31 AM.
006	Julie Neburka	Committee Administrator. Gives brief overview of the bill and a section-by-section analysis.
044	Rep. Wooten	Asks about the duration of the franchise fees.
052	Neburka	Answers that she will get that information. Continues section-by-section analysis.
059		

	Rep. Wooten	Asks if cable providers are exempt from state regulation. Asks how they can become "vulnerable."
066	Neburka	Responds that cable providers are exempt. Continues section-by-section analysis.
074	Rep. Whelan	Asks if the bill states that a city can't charge a business for going into a street.
078	Neburka	Responds that they can.
079	Rep. Whelan	Refers to relevant subsection.
084	Neburka	Continues with section-by-section analysis.
091	Rep. Wooten	Asks if service providers would collect tax revenue for the state.
095	Neburka	Answers yes. Continues with section-by-section analysis.
115	Chair Hill	Asks if in section 8 taxes are to be paid quarterly.
118	Neburka	Answers yes. Continues section-by-section analysis.
134	Rep. Wooten	Asks of estimates for administering.
137	Neburka	Refers to the fiscal statement's estimate that it will require 1.45 full time equivalents.
152	Rep. Wooten	Asks for a comfortable estimate.
156	Chair Hill	States that "appropriate people" will be available to answer questions.
160	Neburka	Continues with section-by-section analysis.
179	Rep. Wooten	Asks staff for differences between the gross population growth from 1990 and more timely estimates made by Portland State Center for Population Research, requesting a ballpark figure for gross revenues.
196	Chair Hill	Responds that someone will testify to that effect.
200	Rep. Wooten	Asks if someone from the Public Utilities Commission will testify concerning revenues.
201	Chair Hill	Responds that someone from Legislative Revenue will testify.
202	Neburka	Continues with section-by-section analysis.
226	Rep. Whelan	Asks who will arbitrate claims of discrimination.
229	Neburka	States that she doesn't know. Defers to a member of the audience
240	Dexter Johnson	Deputy Legislative Counsel. States that the provision reduces authority of municipalities to regulate providers, but doesn't establish procedure for a state authority to arbitrate disputes.
248	Chair Hill	Asks if a civil court might hear disputes.

252	Johnson	States that he isn't sure.
255	Neburka	Continues with section-by-section analysis.
270	Rep. Wooten	Asks what is "reasonable delay."
276	Johnson	Answers that it would be measured according to the normal practices of providers.
282	Rep. Wooten	Asks if a county denies a permit, how is it determined what is "reasonable delay," noting that this is a new arena and a real problem.
301	Chair Hill	Asks Mr. Johnson if there are court cases bearing on unreasonable delay.
310	Rep. Wooten	Asks for a definition in statute.
314	Rep. Johnson	Asks if bill prohibits cities and counties from issuing permits.
328	Johnson	Answers that the bill allows cities and counties to require permits.
3365	Rep. Johnson	Asks about limits on fees for permits.
338	Chair Hill	Refers to section 6.
342	Johnson	States that section 6 prohibits municipalities from imposing fees for use of rights of way.
349	Rep. Johnson	Asks about price limits for permits.
354	Johnson	Answers that section 6 prohibits tax, fee, or charge relating to rights of way.
364	Rep. Johnson	Asks if the price would reflect administrative costs.
366	Johnson	Answers yes.
370	Rep. Whelan	Cites upcoming cuts into roads, asks if municipalities and counties can recoup those costs.
378	Johnson	Answers that they recoup costs through taxes.
384	Rep. Whelan	Asks if franchise fees are over and above permit fees. Asks whether franchise fees or permit fees recoup costs of cutting roads. Asks if there will be decreased revenue
391	Johnson	States that he doesn't know.
TAPE 23, A		
005	Rep. Wooten	Cites several ways of recovering costs. Shares Rep. Whelan's concern over full cost recovery. Asks staff to prepare relevant information.
020	Chair Hill	Asks that the meeting move forward.
022	Neburka	Continues section-by-section analysis.

045	Rep. Adams	Asks why section 19 excludes telecommunications service providers.
050	Johnson	States that section 16 applies to public utilities and section 19 applies to telecommunications utilities.
056	Neburka	Adds that the sections reflect current statutes.
059	Rep. Adams	Asks for definitions of telecommunications service and telecommunications carrier.
064	Neburka	Refers to relevant section.
065	Rep. Johnson	Asks who sponsored the amendments (EXHIBIT A).
067	Chair Hill	Answers that these are the amendments that himself, Rep. Johnson, and Rep. Wooten discussed.
072	Rep. Adams	Asks for the intent of the amendments.
077	Rep. Wooten	Answers that the intent was 1) to reduce gross charges, 2) to call it something other than a franchise fee in order to include wireless providers, 3) that 3% of the gross charges on telecommunications service providers would be returned to cities and/or counties within urban growth boundaries, and 4) the 1.5% would be used by the state to motivate providers to deploy fiberoptic technology.
115	Rep. Johnson	Discusses reasonable delays.
120	Rep. Wooten	Discusses reasonable delays.
125	Rep. Adams	Asks for definition of "under-served."
130	Chair Hill	Refers to page 1, line 20.
138	Rep. Wooten	States that they are waiting for revenue estimates.
145	Rep. Adams	States that "plugging in numbers" is a critical part of the process.
150	Chair Hill	Refers to page 5, line 30, noting that there is a blank.
156	Rep. Johnson	Asks about revenue forecasts.
158	Neburka	States that the committee's revenue officer is in another meeting.
160	Chair Hill	States that the information is upcoming. Calls new witness. Asks witness about her approach, and if her bill is drafted.
176	Rep. Adams	Mentions upcoming report from the Governor's office on infrastructure.
195	Chair Hill	States that he is open to suggestions and that the bill is only a start.

198	Rep. Adams	Asks what people pay today.
200	Rep. Wooten	Answers that it varies. States that 7% is the state cap.
210	Chair Hill	Adds that the League of Oregon Cities will testify on the issue at a future date.
213	Neburka	States that the city representatives are at a meeting in Portland discussing alternatives to franchise agreements.
219	Chair Hill	Asks for the membership of the Oregon Utility Workgroup.
224	Neburka	Answers that the information has been sent to the members' offices.
230	Rep. Johnson	States concern that utilities only pay franchise fees once.
235	Rep. Adams	Asks Rep. Johnson if he means only once annually.
236	Rep. Johnson	Answers that for multiple use they should pay only once.
238	Rep. Adams	Asks if it an annual charge.
239	Chair Hill	Answers that it is quarterly. Asks the witness to explain her "approach."
245	Denise McPhail	Portland General Electric Lobbyist. Mentions desire to keep cities "whole" despite deregulation, i.e., that they would be able to tax energy providers at the same level. Discusses the present levels of franchise fees. Mentions disagreements with HB 2060.
295	McPhail	Continues presentation. Discusses permit fees.
312	Chair Hill	Asks if in present franchise agreements permit fees are included.
317	McPhail	Answers that they were a part of the negotiations, but that they are "small potatoes" compared to franchise fees. Mentions that in her approach cities and counties would pay for relocation of a facility when that relocation is mandated by the city or county.
367	McPhail	Continues presentation. States that her approach imposes a tax on the customer to reflect true costs. States that her approach deals specifically with energy. Cites a Supreme Court decision allowing states to impose more taxes on out-of-state providers of gas, and that in effect the Supreme Court "punted" the issue to Congress.
TAPE 22, B		
010	Rep. Johnson	Asks which case that was.
011	Chair Hill	Asks witness to get back to Rep. Johnson on that.
015	McPhail	

		Requests that tax be imposed on existing competitors. Notes that the revenues are substantial.
024	Rep. Johnson	Asks how the witness intends to incorporate the document.
028	McPhail	Answers that the bill has yet to be printed and that it will be referred to the committee. States that 5% on all revenues would be "extraordinarily more" than they are paying now. Mentions current law, and asks that if additional fees are imposed that they go towards areas relating to their business.
069	Chair Hill	Asks staff to draft the witness' approach as an amendment to HB 2060.
073	Rep. Adams	Asks if they pay county tax.
077	McPhail	Answers that counties have no authority to impose franchise fees.
080	Rep. Adams	States that HB 2060 would include counties.
083	Chair Hill	Adds that -1 amendments would use urban growth boundaries.
086	Rep. Adams	Asks if costs cited in page 2, line 3 would be included in retail price.
088	McPhail	Mentions unbundling generation and distribution, and that they will be common carriers at the distribution level.
092	Rep. Adams	Asks if they might re-sell unbundled elements to another utility.
097	McPhail	Points out misprint which reads "wholesale sales" instead of "retail sales." Anticipates that wholesale sales would not be subject to franchise taxes.
111	Oren Floyd	Representing Sprint and United Telephone in the Northwest. States tentative support but questions the amendments, specifically the use of urban growth boundaries. Supports three general concepts: franchise tax uniformity, cost recovery as the tax basis, and taxing the general user.
138	Rep. Adams	Asks if under the definitions set by the bill, if Sprint would pay franchise taxes.
141	Floyd	Answers that he believes so.
144	Rep. Johnson	Suggests using county boundaries.
150	Chair Hill	States that the committee will consider the effects of using county boundaries versus urban growth boundaries.
162	Floyd	States that he will gather that information.
168	Rep. Johnson	Asks how Sprint categorizes customers.
172	Floyd	Answers that they identify customers by tax jurisdiction.
181	Chair Hill	Asks about the process of adding property to existing boundary lines.

187	Rep. Wooten	Asks how long distance providers participate in franchise fee program.
202	Floyd	States that he doesn't know.
204	Rep. Wooten	Asks how they determine the number of calls through a particular transmission.
212	Floyd	Answers that they use area codes.
223	Mike Dewey	Representing Oregon Cable Telecommunications Association. Takes no position on HB 2060. Addresses Rep. Wooten's earlier question about cable, mentioning that in most states the cities or the counties are the franchise authority. States that his association is looking for parity. Agrees with Oren Floyd that taxes should be based on the cost of regulation. Mentions that "onerous taxes" could cause providers to move towards wireless technology.
261	Chair Hill	States that the bill will be revisited on Tuesday. Adjourns meeting at 10:45 AM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2060, LC amendment, staff, 2 pp.