

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS AND TRADE

April 1, 1997 Hearing Room 343

8:15 AM Tapes 37 - 39

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 2004 - Public Hearing

HB 2901 - Public Hearing

HB 2143 - Work Session

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 37, A		
006	Chair Hill	Opens public hearing on HB 2004.
<u>HB 2004 - PUBLIC HEARING</u>		
011		Briefly explains the bill.

	Julie Neburka	
016	Gary Bauer	Oregon Independent Telephone Association. Talks of current laws relating to electrician licenses and areas exempt from licensing requirement.
044	Chair Hill	Asks how you define a telephone system.
046	Bauer	Answers that it must tie into the telephone network. Describes the two types of licenses. States that the bill applies only to telecommunications utilities. Requests that it be amended to include telecommunications operatives.
068	Jim Damon	President of Oregon Telephone Corporation and Northstate Telephone Company. Supports the bill. Notes that the bill excludes operating telephone companies from licensing requirement. States that the company has been performing the electrical work for years. Questions why they need a license for something they have been doing for years.
118	Damon	States that he has never experienced an accident with low voltage. Notes that schooling is necessary to apply for the license and that that necessitates extensive traveling.
143	Rep. Adams	Asks for the definition of a telecommunications utility in the relevant statute.
149	Bauer	Answers that it is the definition in public utility statutes, applying to companies regulated by the PUC. Expresses desire to include in that definition telecommunications cooperatives and competitors.
159	Damon	Offers that a simple definition is one who provides a dial tone.
164	Rep. Adams	Notes that the definition could require licensing from some and not others who provide the same services.
173	Bauer	Replies that that is correct.
185	Rep. Adams	States that he always disagreed with the statutes. Mentions deregulation and resultant changes.
192	Damon	Agrees that the world has changed since deregulation. Assures, however, that in this field his company won't be doing anything new.
204	Rep. Adams	Asks if Mr. Damon has an electrician who converts AC to DC.
208	Damon	Answers yes that an electrician "hooks it up." Notes that batteries operate the system at approximately 40 watts.
223	John Gervais	National Electrical Contractor's Association. Submits written testimony (EXHIBIT A). Opposes the bill. States that the bill is unfair in that it exempts one group only, noting the training costs. Mentions technological advances.
256	Chair Hill	Asks if low-energy work should have a license requirement.
260	Gervais	States that that would be "the only fair way."
268	Joe Brewer	

		Department of Consumer and Business Services. Opposes the bill. States that the bill is unclear on issues of permitting and inspecting. Notes that the companies are working on equipment that is owned by the customer. Discusses safety issues. Cites a willingness to work with the bill's proponents.
293	Rep. Whelan	Asks how many people will be affected by the bill.
296	Brewer	Replies that he's not prepared to answer that question.
303	Rep. Adams	Suggests that there is nothing in the bill removing an inspection requirement.
328	Brewer	Answers that that issue needs clarification. Adds that systems might be modified by untrained individuals. Submits copy of relevant statute, ORS 479.540 (EXHIBIT B).
346	Rep. Wooten	Asks if there have been specific instances which triggered his concerns.
357	Brewer	Replies that he will have to check his files. Adds that they work primarily with licensed providers.
364	Rep. Wooten	Suggests that it might not be a problem.
375	Rep. Johnson	Asks if it would allow only low voltage.
377	Brewer	Answers yes.
383	Rep. Johnson	States that Mr. Brewer's concern might be a "stretch," that there aren't many problems associated with low-voltage work. States that Mr. Brewer shouldn't be involved in that area.
TAPE 38, A		
001	Brewer	Responds that the department's concern is with fires and other hazards and that he will search his records for violations with regards to those issues.
005	Chair Hill	Asks if schools wiring their classrooms need a license.
008	Brewer	Answers that the installers would need to be trained. Notes training costs. Hopes that there are safety benefits.
015	Chair Hill	Asks the witness to specify the safety benefits.
016	Brewer	Mentions proper sealing of penetrations and supervision of fire alarm systems.
022	Rep. Adams	Asks if low voltage systems are inspected.
025	Brewer	Answers that his department inspects low-voltage systems where they have jurisdiction.
029	Rep. Adams	States that the bill talks about licensing not inspections.
032	Brewer	Replies that he wants to ensure that there are no exemptions from inspection.

036	Gervais	States that he has better-trained employees, and that it is an unfair competitive advantage to require licensing for some and not for others.
042	Rep. Johnson	Interjects that he has seen installations of fire alarm systems without inspection. States that the proposal adds to the costs to consumers and that it doesn't make sense.
057	Chair Hill	Closes public hearing on HB 2004. Opens public hearing on HB 2901.
<u>HB 2901 - PUBLIC HEARING</u>		
093	Rick Willis	Executive Director of the Oregon Public Utilities Commission. Submits written testimony (EXHIBIT C). Supports the bill with suggested amendments. Describes affected programs.
115	Rep. Johnson	Asks if the surcharge has covered the costs.
122	Willis	Answers yes.
123	Rep. Johnson	Asks if there are surpluses.
124	Willis	Answers yes.
125	Rep. Johnson	Asks what would happen if they didn't pass the bill.
126	Willis	Answers that it would sunset January 1, 1998.
128	Rep. Johnson	Asks if they would pay a penalty.
129	Willis	Answers that the relay services would receive sanctions but that telephone companies "could pick that up."
131	Rep. Johnson	Asks if telephone companies could do it at a lower cost.
132	Willis	Answers that he hasn't tested that. Notes work with advisory committee.
134	Gary Bauer	Oregon Independent Telephone Association. States that the requirement is simply that a relay system be provided. States that the rate is currently half because of work with telephone companies.
147	Willis	Adds that that is a reason for the surplus. Continues presentation. Explains reasons for the program's surplus. States that they lowered the surcharge to "spend down" the fund balance. Describes proposed amendments
187	Willis	Continues description of proposed amendments.
198	Rep. Johnson	Asks how many systems are being paid for.
201	Willis	Answers approximately 2,500.

204	Rep. Johnson	Asks how much it costs.
208	Willis	Answers \$9 million.
213	Bauer	States that there are two separate systems, and that the operation of the relay system costs \$9 million.
223	Rep. Johnson	Asks about the costs per unit.
225	Willis	Describes the costs of the different programs.
229	Chair Hill	Asks for Mr. Bauer's perspective.
231	Bauer	Supports continuation of the program, noting that a statewide program is more cost-effective. States that there are reasons to review the program.
246	Rep. Wooten	Asks for the effects of removing the statutory requirement to spend down the reserve pool.
258	Willis	Believes that it would stabilize rates. States that charging 20 cents-per-subscriber could remain stable for several years, eliminating the "bubble" that currently exists.
269	Rep. Wooten	States that she is looking to reduce the costs of the program for consumers. Asks how to do that.
278	Willis	Answers that they can eliminate services to reduce the rate, but that to keep the services they would have to charge 20 cents-per-subscriber. Adds the administrative costs are 5.4% of total costs. Suggests that not giving "the full 7 dollars to low income" would help lower the rate.
301	Rep. Johnson	Asks if there is a means test determining eligibility.
302	Willis	Answers no, that they opted for the voucher program.
317	Rep. Johnson	Asks if the program costs taxpayers a \$100 per month..
320	Willis	Answers that he hasn't read the numbers that way.
322	Rep. Johnson	Recommends a cap on what taxpayers pay. Speaks against unlimited use. Asks if there are limits.
343	Willis	Points out that the program's users do pay long-distance rates, but nothing additional for the relay services.
354	Rep. Johnson	Asks if there is a subsidy for long-distance services.
362	Willis	Answers that there is a 30% discount due to the additional time needed for the relay. States that there is no consideration at the federal level imposing a cap. Mentions federal law requiring same services at the same price.
392	Rep. Adams	Asks who has the contract for the relay system.
TAPE 37, B		

011	Willis	Answers that Sprint has the contract.
016	Rep. Adams	Asks what it costs per call.
020	Willis	States that he can get that information to the committee.
025	Chair Hill	Closes public hearing on HB 2901. Opens work session on HB 2143.
<u>HB 2143 - WORK SESSION</u>		
044	Neburka	Briefly describes HB 2143 and amendments.
071	Rep. Wooten	MOTION: Moves to ADOPT HB 2143-1 amendments dated 1/29/97.
088		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES.
088	Rep. Wooten	Asks for the effects of the -4 amendments (EXHIBIT D).
091	Neburka	Explains -4 amendments.
097	Rep. Wooten	MOTION: Moves to ADOPT HB 2143-4 amendments dated 2/24/97.
099	Rep. Adams	Asks who requested the -4 amendments.
101	Steve Hart	Answers a small company in Bakers City.
110	Rep. Adams	Asks about revenue impact.
112	Yvonne Addington	Oregon Economic Development Dept. Answers that failure to file on time would result in a company having to pay taxes for that year.
125	Chair Hill	Reminds that the bill has a subsequent referral to the Revenue Committee.
126		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES.
130	Charlie Mitchell	Economic Development Specialist for the city of Grants Pass. Explains the -5 amendments (EXHIBIT E). Talks of the importance of tourism.
158		

	Rep. Whelan	Asks if enterprise zones were intended to attract higher wage manufacturing jobs.
165	Addington	Answers yes.
169	Rep. Whelan	Opposes the amendments because it subsidizes, through the taxpayer, tax abatements to hotel/motel employers. States that the hotel operators are the only winners.
179	Mitchell	Refers to the overall economic benefits to the area.
185	Rep. Wooten	Asks who is the applicant of the amendments
187	Mitchell	Answers that the applicant is the city of Grants Pass.
190	Rep. Wooten	Asks who is the specific developer
194	Mitchell	Answers that there isn't a specific developer but that there is a specific site that they want developed.
195	Rep. Wooten	Asks of possible expansions of enterprise zones under the amendments.
196	Addington	Defers to Art Fish.
201	Rep. Wooten	Concurs with Rep. Whelan's objections. States that the taxpayers are already paying due to the property tax abatements.
213	Chair Hill	Asks if Grants Pass envisions attracting manufacturing jobs.
218	Mitchell	Answers that the proposed areas to be developed include industrial lands.
220	Rep. Adams	Asks how many industrial zones currently include hotels/motels.
227	Art Fish	Answers that 26 out of 35 industrial zones currently include hotels/motels.
237	Rep. Adams	Asks if the bill simply creates the same potential for the remaining nine.
240	Chair Hill	Asks if Smith Rock is within an enterprise zone.
244	Fish	Answers that it is not. States that the amendments simply allow the remaining industrial zones to include hotels/motels if that decision is reached by their city and county governments.
256	Chair Hill	Asks if there is a public hearing process.
262	Fish	Answers that they require a resolution.
271	Rep. Johnson	MOTION: Moves to ADOPT HB 2143-5 amendments dated 2/26/97.
274		VOTE: 3-2 AYE: 3 - Adams, Johnson, Hill NAY: 2 - Whelan, Wooten
		The motion CARRIES.

	Chair	
284	Rep. Johnson	MOTION: Moves HB 2143 to the floor with a DO PASS AS AMENDED recommendation.
287		VOTE: 4-1 AYE: 4 - Adams, Whelan, Johnson, Hill NAY: 1 - Wooten
	Chair	The motion CARRIES.
293	Chair Hill	Closes work session on HB 2143. Opens public hearing on HB 2060.
<u>HB 2060 - PUBLIC HEARING</u>		
319	Laura Imeson	AT&T Wireless. States concerns with the bill. Submits written testimony (EXHIBIT F). Asks that the gross revenue stream be competitively neutral. Encourages adopting amendments.
379	Kevin Martin	Sprint PCS. Announces that his company is a new provider in the state with state-of-the-art technology. States that franchise fees should not apply to wireless providers. Mentions that they are licensed with the Federal Communications Commission, and that imposing franchise fees would be a barrier prohibited under federal law.
439	Martin	States that wireless companies already pay right of way taxes indirectly through rates paid to land-line carriers. Notes that state and local governments are prohibited under federal law from regulating the rates charged by wireless carriers.
TAPE 38, B		
003	Rep. Whelan	Asks what rate wireless companies pay land-line companies.
004	Martin	Answers that they pay the regular rate for a phone line.
007	Steve Winslow	Western Wireless. Cites his company's PCS license. Expresses concerns with the bill. Notes that his company pays private land owners for the use of sites. Suggests that the bill might violate federal requirements for competitive neutrality.
029	Richard Kosesan	US West New Vector. Suggests amendments to exclude wireless, noting that they don't use the rights of way. States that current statute imposes what amounts to a privilege tax for use of the rights of way. States that the bill would be justified if wireless was in direct competition with a land-line provider.
062	Brian Delashmutt	Nextel Communications. Expresses concern with being taxed multiple times.

077	Chair Hill	Asks if the companies have experienced problems siting towers.
085	Martin	Answers there are always issues that arise. Mentions updating land-use codes.
097	Chair Hill	Asks if there is a fee paid to the city.
100	Martin	Answers that there is a land use application fee.
104	Rep. Adams	Asks about leasing the site.
106	Martin	Answers that it varies considerably.
109	Chair Hill	Asks about the distance between sites.
110	Martin	Answers that it depends on whether the site is in an urban or a rural area.
111	Imeson	Answers that it depends on the customer base.
121	Rep. Wooten	Mentions her intent that franchise fees become business fees which are applied consistently statewide. Invites participation in creating amendments which address the issue of double taxation.
141	Martin	Asks why there is an effort to tax wireless companies.
144	Rep. Wooten	Replies that local governments are taxing wireless companies. Expresses a desire for consistency . Asks for growth forecasts.
167	Kosesan	Refers to a case in Minnesota which would shed light on the debate. States that the federal act grants state and local governments the right to tax the use of the rights of way.
187	Rep. Wooten	States that the point is moot because there are no amendments. Notes that the federal act is permissive in its language.
200	Rep. Adams	Talks about the issue of double taxation. Asks if they are double taxed when they use satellite connections.
218	Martin	Answers that they will be if taxes become based on gross receipts. Reports that his business leases land lines.
235	Rep. Adams	Thinks that his cellular bill is based on a base rate. States franchise fees have nothing to do with rights of way, and that the issue is whether or not to impose a selective sales tax.
267	Imeson	Responds that a broad based utility tax would discriminate against wireless because they don't benefit from the use of the right of way. Adds that no matter the technology, wireless customers currently pay franchise fees.
289	Martin	Gives an analogy of taxing each computer chip that Intel produced. Again questions the motivation behind imposing a selective sales tax under the guise of a privilege tax.
310	Chair Hill	Asks counsel for information regarding the competitive neutrality of these issues.
320	Rep. Adams	Remarks that the bill could prevent something "far worse" from happening to wireless companies.
340	Kosesan	Agrees and states that he will provide information on the pending ruling in Minnesota.

348	Rep. Adams	Adds that the discussion has transcended the case in Minnesota.
380	Bob Cantine	Association of Oregon Counties. Submits written testimony (EXHIBIT G).
TAPE 39, A		
017	Chair Hill	Asks if the counties have had problems managing rights of way without the franchise fee.
024	Cantine	Answers yes. Urges equitable treatment for counties. Adds that the charge should be on the bottom of the bill.
049	Bob Hansen	Marion County. Gives presentation on map.
071	Mike Maloney	Land Use and Transportation, Washington County. Briefly describes impact of utilities' use on their rights of way.
086	Chair Hill	Asks if they charge utilities for street cuts.
087	Maloney	Answers that they don't.
089	Chair Hill	Asks which utilities go underground.
091	Maloney	Answers water, sewer, natural gas, electric, and telephone. Notes that an increasing number of all utilities are going underground.
093	Chair Hill	Asks which utilities make the most street cuts.
094	Maloney	Answers water, sewer, and natural gas.
095	Chair Hill	Asks if those cuts are primarily in older neighborhoods.
095	Maloney	Answers that the cuts are in all neighborhoods but primarily in developing neighborhoods.
096	Chair Hill	Asks if utilities lay down their lines before the streets are paved over in developing neighborhoods.
101	Maloney	Answers that in Washington County most of the development is adjacent to existing neighborhoods and to connect with the existing systems they have to cut the streets.
112	Rep. Whelan	Asks why they don't charge for cuts.
115	Maloney	Answers that counties don't have that right under current statutes.
119	Rep. Whelan	Asks if they could charge sufficient fees to recover the costs.
120	Maloney	Notes that utilities do a good job patching streets, but that even the best patch work will fail prematurely.
125	Rep. Whelan	Asks if they can recover bureaucratic oversight costs.
126	Maloney	Answers that they cannot.
129	Rep. Adams	Asks if the counties would like franchise fees to not only recover costs but to generate revenue.
134	Cantine	Answers yes.

136	Rep. Adams	Asks if they can currently do that with cable.
137	Cantine	Answers yes.
140	Chair Hill	Asks for a description of cable fees.
142	Hansen	Answers that in Marion County there is a 5% franchise fee, 3% going to the general fund and 2% going to the franchise regulatory agency.
145	Carol Fisher	Public Affairs Director for Marion County.
147	Chair Hill	Asks what the regulatory agency does with the 2%.
149	Fisher	Answers that the funds from TCI cable go towards the local public access channel. Adds that funds from other cable companies are small and go in part to provide her salary.
162	Maloney	States that the situation in Washington County is very similar.
165	Rep. Adams	Asks why the funds generated in Multnomah county are significantly less.
168	Chair Hill	Answers. Suggests putting funds into a depreciation account to fix roads. States that the committee has a work session on HB 2060 next Tuesday. Asks the audience to have their amendments prepared beforehand. Adjourns meeting at 10:25 AM.

Submitted By, Reviewed By,

Coben Tistadt, Julie Neburka,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2004, written testimony, John Gervais, 1 p.

B - HB 2004, Oregon Revised Statute, Joe Brewer, 1 p.

C - HB 2901, written testimony, Rick Willis, 3 pp.

D - HB 2143, LC amendment, staff, 2 pp.

E - HB 2143, LC amendment, staff, 3 pp.

F - HB 2060, written testimony, Laura Imeson, 3 pp.

G - HB 2060, written testimony, Robert Cantine, 2 pp.