

HOUSE COMMITTEE ON GENERAL GOVERNMENT

April 14, 1997 Hearing Room D

1:00 P.M. Tapes 74 - 75

**MEMBERS PRESENT:**

Rep. Ken Strobeck, Chair

Rep. Dan Gardner, Vice-Chair

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Kurt Schrader

Rep. Liz VanLeeuwen

Rep. Tom Whelan

**STAFF PRESENT:**

Jeri Chenelle, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 3168 - Public Hearing and Work Session

HB 2764 - Public Hearing

HB 3701 - Public Hearing and Work Session

HB 2614 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 74, A</b>		
002	Chair Strobeck	Calls meeting to order at 1:33 and opens public hearing on HB 3168.
<b><u>HB 3168 - PUBLIC</u></b>		

<b>HEARING</b>		
003	Jeri Chenelle	Administrator, review provisions of the bill
008	Shawn Miller	Shawn Miller, Northwest Payphone Association, testifies in support of HB 3168 <b>(EXHIBIT A)</b> .
047	Joe Gilliam	National Federation of Independent Business (NFIB), testifies in support of HB 3168 <b>(EXHIBIT B)</b> .
		Issues discussed:
097		* whether they have taken the issue to court
		* whether an attorney general opinion has been requested
095		* private payphones were allow in 1984; initiative passed in 1986
105		* original ballot measure was initiated by NFIB and Citizen Utility Board (CUB)
119	Miller	Explains payphone providers are defined in the statute as "call aggregator" rather than local exchange service, but are included under the local exchange service for the purpose of billings. Adds that no other call aggregator is allowed to be charged measured service.
146	Brooks Harlow	Attorney, Northwest Payphone Association, explains that the association represents independent payphone providers in Oregon, Washington, Idaho, and Montana, and testifies in support of HB 3168:
		* has been trying to bring about competitive parity in the payphone business and to ensure independent providers can compete with the local exchange companies
		* a three-year long rate case against U. S. West in Washington on behalf of the Payphone Association sought to challenge the phone line rate that the independent payphone provider pays for their business phone lines as being excessive, discriminatory and anti-competitive
		* Washington commission found it was anti-competitive, imposed a price squeeze on the independent payphone providers, and that a payphone line purchase is the same as a line any other business buys and therefore it was discriminatory to charge a measured rate rather than a flat rate, which all other businesses get
160		* excessive rates harm all ratepayers, particularly payphone users
169		* FCC has deregulated the coin rate
		* after November 7, U. S. West, GTE, and the independent providers can charge whatever they want
		* FCC has prohibited U. S. West, GTE and the other local exchange companies from subsidizing their payphones
178		* FCC requires local exchange companies charge their own payphone the same amount for the line; it is a cost of doing business and must be recovered
		* cost cannot be charged to the subsidy and therefore will be charged to the end user

185		* under the U. S. West rate scheme, a payphone provider will have to pay approximately seven cents per call for local calls; GTE has a rate of eight cents per call
190		* there is potential for a 10 cent higher unregulated rate because of discriminatory measured structure
195		* question is whether there will be a cost structure for the payphone companies that will allow rates to stay at 25 cents to 35 cents to the end user, or whether there will be a cost structure that forces the rates up to 35 or 40 cents per local call
		* the seven-cent rate is not needed by the local phone company to cover their costs; the payphone providers do need a cost-based, flat rate in order to ensure the consumers who use payphones do not get overcharged for that service in the new deregulated environment
228	Rep. Montgomery	Asks who is charging \$4.00 for a one minute call from The Dalles to Cascade Locks.
236	Harlow	Responds the phone should have the name of the payphone provider and if they are charging that rate, they should be subpoenaed here to answer why. Adds the industry that is charging is the operator service industry which was created as a direct response to anti-competitive actions by local exchange companies who charged too much for the access line and forced competitive payphone providers to make up that cost somewhere. Comments that some of the operators got greedy, and would hope the Northwest Payphone Association does not have companies like that as members because it is clearly too high a charge for that kind of a call.
254	Rep. Schrader	Asks for definitions of local exchange, aggregator, operating service industry, and independent payphone operator.
	Harlow	Explains local exchange company is basically the phone company.
		An aggregator is a company that aggregates telephone usage in some way; examples would be a dormitory, hospital, or hotel.
		An operator service company provides toll or local calls with the assistance of either a live or mechanical operator.
		The pay phone people are business people; many local exchange companies are in the pay phone business.
294	Rep. Hill	Asks for an explanation of the costs involved in providing service.
	Harlow	Responds most of the costs is providing the line, the phone, phone booth, labor for maintenance, collecting the coins, cleaning, and removing graffiti; costs can be broken down per call.
344	Chair Strobeck	Asks what kind of rates the solicitation businesses get.
	Harlow	Responds it is his understanding they get a flat rate in Oregon.
359	Chair Strobeck	Asks if the hotels, etc. get flat rates.
365	Harlow	Responds that is his understanding.

371	Chuck Jones	Telad International, Inc., testifies in support of HB 3168 ( <b>EXHIBIT C</b> ).
420	Jones	Continues presentation.
<b>TAPE 75, A</b>		
015	Jones	Continues presentation.
070	Jones	Reviews phone bills ( <b>EXHIBIT C</b> ).
085	Rep. Schrader	Asks if they are aggregators.
090	Jones	Explains there are a lot of companies that go into a building and sell all the businesses and get T-Span lines and put in aggregation, hotels sell off to their customers; Telad provides access to the system--for 25 cents you can use a phone and get into the system. Adds they may be categorized as aggregator, but are not resellers.
100	Rep. Hill	Asks what company provides them long distance service.
	Jones	Responds they currently use LDDS, and do get some return.
	Rep. Hill	As if the return is included in the phone bills ( <b>EXHIBIT C</b> ).
	Jones	Responds it is completely separate as is the One Plus, the dollar that is put in the phone for long distance.
110	Chair Strobeck	Comments there may be a problem with the definition of call aggregator because the bill is to prohibit all aggregators from being charged on a measured service basis.
121	Jones	Responds, " We accept the categorization that we assume the PUC has placed us in, or the category that we have originally been placed in. I simply was trying to make the point that we aren't resellers of such or we don't amalgamate large volumes of traffic such as some other call aggregators. We accept the characterization that we probably fall in that category for lack of a better term."
128	Chair Strobeck	Comments that Mr. Jones comments would clarify it because line 15 leaves in "local exchange telephone service resold at a profit" as something that could be on a measured service basis.
138	Jim Stannage	Oregon Public Utility Commission, Telecommunications Division (PUC), introduces David Booth, Telecommunications Division.
144	Chair Strobeck	Asks if there are other call aggregators in the statutes that are required to be charged on a measured service basis.
164	Stannage	Responds no, and explains that a call aggregator is not a term that appears in the tariff of telephone utilities which the commission regulates; it is a legal term and appears in the operator service statute.
155	Chair Strobeck	Asks if it is discretionary to decide who is in and who is out as to what kind of service they are charged for.
157	Stannage	Responds it is not up to the discretion of the commission to define who is a call aggregator; how rates are set is up to the discretion of the commission.
		Public Utility Commission (PUC), explains the commission has not set

162	David Booth	rates for "call aggregator" as a distinguishing characteristic; this would introduce that into the rate setting process.
167	Chair Strobeck	Asks why other businesses are not included.
	Booth	Responds that the tariffs filed by the phone companies are not distinguished, they are simply business customers.
172	Stannage	Adds that the statute allows telephone utilities to charge mandatory measured rates for local service when it is resold, and that other call aggregators provide services out of local business service tariffs and the designation of any kind of payphone provider is different under the tariff.
180	Rep. Hill	Asks if the competitive local exchange people who resell fall under the statute and therefore measured service.
192	Booth	Responds there will be competing local exchange carriers providing local services, and one of the services they could purchase from the existing utilities is public access line service which is used by payphones; the competing companies will buy from the local utility at a discount, and the commission is not planning to regulate their rates. Adds that coin phones will be connected to service provided by local exchange providers other than utilities in the near future.
214	Rep. Hill	Asks if reselling of local exchange telephone service would be allowed to be sold at measured rates under this statutes.
217	Stannage	Responds if competing carriers wish to sell at measured rates, they could do so.
219	Rep. Schrader	Comments that while it is an issue, it may not be as major as when the independent LACs come about and start to bid for the major exchanges and phone booths and be offered a discount; then it would become a competitive disadvantage for the independent payphone providers, and ask if that is what they are talking about.
228	Booth	Responds he is discussing who is going to provide service to the client phone owner. Adds the pay phone owner has very little choice who they get service from; if they are in the U. S. West territory, they are going to get U. S. West.
233	Rep. Schrader	Asks if there are four scenarios: the major people who will continue to have their own phone booths, the independent payphone, new locals coming in who will conceivably run their own phone booths after buying the service from the majors, and we would have locals who could contract out to independent payphone people to do the phone booth service.
253	Booth	Comments to date he has not seen any proposal to do that; it is more likely the line that services the payphone will be sold.
265	Ginny Lang	U. S. West Communications, testifies in opposition to HB 3168:
		* independent payphone providers have a separate usage sensitive class of subscriber service because they generally have higher level of usage; it

		is approximately 17 percent higher per month than the average business user
285		* Telecommunication Act of 1996, Section 276, provides that the payphone business will be completely deregulated and establishes rules about what kinds of competition will exist
		* providers will have choices about pricing schemes
		* there are states where payphone providers do enjoy a flat rate service; in Iowa they have not passed on any savings and still charge 35 cents per call
		* believe, because of resale nature of the business, it is an acceptable practice that there be some combination of per message call as well as A rate for access to the line
318	Rep. Whelan	Comments that allegedly the pricing structure in Washington was deemed to be discriminatory and a barrier to entry, and ask if the same pricing structure would not be found to be the same in Oregon.
324	Lang	Responds she is not certain of all issues in the Washington case; there has not been that overview in Oregon by the commission, nor the up-front work done that may have gone on in Washington.
336	Rep. Schrader	Asks Ms. Lang if they anticipate charging measured service to everyone.
344	Lang	Responds the passage of the federal act does set up a structure where barriers are not acceptable and U. S. West does expect a great deal of competition in all aspects of the business. Adds that U. S. West's payphone service is deregulated and must pay the same kind of charges as those made to outside payphone providers.
359	Land	Adds that as to measured service, the commission may not require mandatory measured service of anyone; it does make available a measured rate as part of the tariffs. U. S. West would expect more customers will take advantage of it, but cannot go to the PUC and ask for mandatory measured service for all residential or all business services.
376	Chair Strobeck	Closes public hearing on HB 3168 and opens work session on HB 3168.
<b><u>HB 3168 - WORK SESSION</u></b>		
379	Rep. Gardner	<b>MOTION: Moves HB 3168 to the floor with a DO PASS recommendation.</b>
388		<b>VOTE: 5-2</b> <b>AYE: 5 - Gardner, Montgomery, Schrader, Whelan, Strobeck</b> <b>NAY: 2 - Hill, VanLeeuwen</b>
	Chair	<b>The motion CARRIES.</b>

	Strobeck	<b>REP. STROBECK will lead discussion on the floor.</b>
397	Chair Strobeck	Closes work session on HB 3168 and opens public hearing on HB 2764.
<b><u>HB 2764 - PUBLIC HEARING</u></b>		
385	Jeri Chenelle	Administrator, reviews provisions of HB 2764.
415	Roger Martin	Executive Director, Oregon Transit Association, introduces Phyllis Loobey, General Manager, Lane Transit, and comments HB 2764 is not a major piece of legislation; it is an attempt to clarify and change slightly what many people thought they could already do. Adds that Tri-Met thinks they already have this power, but the attorney for Lane Transit, Joe Richards, has decided it probably is not clear enough and needs to be cleared up.
<b>TAPE 74, B</b>		
012	Phyllis Loobey	Lane Transit District, testifies in support of HB 2764 ( <b>EXHIBIT D</b> ):
		* current language says, "incidental to the purposes of the mass transit district"; it could be a newspaper kiosk or a coffee stand, but it is not clear that any private sector entity may enter into a partnership with the transit district for the development of a facility; it is not clear whether the purpose is incidental, instead of ancillary
		* reason Commercial Realty ( <b>EXHIBIT D, page 2</b> ) is sending the letter is they understand the value of transit service to their development; by working with them the district can determine the amenities that would move the partnership along
040		* gives examples of partnerships
046	Rep. VanLeeuwen	Comments it seems if the bill passes, they can condemn whatever they wish if they want to have an ancillary facility.
045	Loobey	Explains eminent domain rights of transit districts.
		Discussion continues on eminent domain.
068	Loobey	Comments the intent of the change is to allow the district to approach any private sector entity to co-locate on public facilities.
071	Rep. VanLeeuwen	Comments that Section 2, line 26, gives the authority for condemnation and it looks like it is allowing the authority of condemnation for the ancillary commercial facilities.
081	Lobby	Responds that in the opinion of their counsel, the definition of "incidental" limits the purposes for which the district can exercise eminent domain for purposes only incidental to the transit system and its operation. States the change "ancillary" would not confine the district to only those private sector or commercial operations that would be incidental.

094	Martin	Adds that Salem Area Transit is interested in the same issue, and that park and ride stations are very large and they would rather build some kind of structure that would combine private structures that could be used on a regular basis, and that transit districts have not used the power of eminent domain wily nilly.
122	Rep. Hill	Comments his concern is that this is a hole you can drive a truck through, and that Tri-Met has been able to accomplish the things Ms. Loobey talked about. Adds he is concerned that Tri-Met changes its focus from providing bus service and mass transit into what is happening in downtown Hillsboro.
148	Rep. Schrader	Comments he is not sure the bill gets at the intent and suggests redrafting the bill to say the transit authorities can enter into public-private partnerships with private industry building the ancillary facilities. Adds that the bill expands the condemnation process and puts Tri-Met or the Lane Transit District into the commercial business.
153	Loobey	Asks to work with Rep. Schrader because his statement is what they are trying to do.
170	Chair Strobeck	Clarifies that Rep. Schrader's suggestion is to be more explicit in talking about public-private partnerships, notes that the language says "facilitate the operations of the system," and comments he does not believe they could go half a mile from the bus or train route to develop a mini mall because it would not facilitate the operation.
203	Loobey	Gives example of problem they encountered in meeting the conditional use permit to install a barrier, a 11 foot wall, from a retirement facility and the construction of transit district offices and restrooms for the operators and desire of private development to participate in construction.
245	Rep. Schrader	Comments he thinks this could be a very good bill for public/private partnerships.
253	Martin	Comments he would like to consult with Tri-Met which has had a lot of experience with the light rail lines and because of federal dollars all the development may not have all been privately financed.
266	Chair Strobeck	Closes public hearing on HB 2764 and opens public hearing on HB 3701.
<b><u>HB 3701 - PUBLIC HEARING</u></b>		
258	Jeri Chenelle	Administrator, reviews provisions of HB 3701.
283	Rep. Jenson	Testifies in support of HB 3701, submits a prepared statement ( <b>EXHIBIT E</b> ), copies of letters from the Pendleton Mayor, Pendleton Chief of Police, and Umatilla County District Attorney ( <b>EXHIBIT F</b> ), and proposes amendments ( <b>EXHIBIT G</b> ).
230	Rep. Jenson	Continues reading statement.
250	Rep. Jenson	Continues presentation.



406	Rep. Schrader	Asks if an age should be referenced, or whether it is implicit in ORS 167.
406	Chair Strobeck	Stephanie Andrews, Legislative Aide to Rep. Jenson, responds the general prohibition on providing alcohol to a minor would be sufficient and that no reference would be needed.
	Chair Strobeck	Closes public hearing and opens work session on HB 3701.
<b><u>HB 3701 - WORK SESSION</u></b>		
425	Rep. Gardner	<b>MOTION: Moves to ADOPT HB 3701-1 amendments dated 04/07/97.</b>
425		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Rep. Montgomery, Whelan</b>
	Chair Strobeck	<b>Hearing no objection, declares the motion CARRIED.</b>
430	Rep. Gardner	<b>MOTION: Moves HB 3701 to the floor with a DO PASS AS AMENDED recommendation.</b>
433		<b>VOTE: 5-1</b> <b>AYE: 5 - Gardner, Hill, Schrader, Whelan, Strobeck</b> <b>NAY: 1 - VanLeeuwen</b> <b>EXCUSED: 1 - Montgomery</b>
	Chair Strobeck	<b>The motion CARRIES.</b> <b>REP. JENSON will lead discussion on the floor.</b>
	Chair Strobeck	Closes work session on HB 3701.
<b><u>HB 2614 - PUBLIC HEARING</u></b>		
446	Chair Strobeck	Opens the public hearing on HB 2614.
446	Chair Strobeck	Closes public hearing on HB 2614.
447	Chair Strobeck	Adjourns meeting at 2:55 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jeri Chenelle,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 3168, prepared statement, Shawn Miller, 1 p**

**B - HB 3168, prepared statement, Joe Gilliam, 4 pp**

**C - HB 3168, prepared statement, Chuck Jones, 13 pp**

**D - HB 2764, prepared statement, Phyllis Loobey, 4 pp**

**E - HB 3701, prepared statement, Rep. Bob Jenson, 2 pp**

**F - HB 3701, HB 3701-1 amendments, Rep. Bob Jenson, 2 pp**

**G - HB 3701, letters in support, Rep. Bob Jenson, 3 pp**