

HOUSE COMMITTEE ON TRANSPORTATION

June 23, 1997 Hearing Room C

8:30 A.M. Tapes 139 - 142

MEMBERS PRESENT:

Rep. Bob Montgomery, Chair

Rep. Mike Lehman, Vice-Chair

Rep. Steve Harper

Rep. Tim Josi

Rep. Jane Lokan

Rep. Lonnie Roberts

Rep. Larry Wells

STAFF PRESENT:

Keith Putman, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

SB 63-A - Public Hearing and Work Session

SB 533-A - Public Hearing and Work Session

SB 1206-A - Public Hearing and Work Session

SB 776-A - Public Hearing

HB 3705-B - 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 139, A		
003	Chair Montgomery	Calls meeting to order at 8:36 a.m. and opens the public hearing on SB 776-A.

SB 776-A - WORK SESSION		
020	Keith Putman	Administrator, explains provisions of SB 776-A.
026	Kevin Mannix	Attorney in Salem, testifies in support of SB 776-A:
		* reviews history of practice of pharmacists
		* employment Department had no problem in the Senate, but heard from federal government that it would put Oregon in non-conformity
		* worked on SB 776-A; it says if you are a licensed pharmacists and working within the license, the pharmacists may contract with their clients
		* client will be a pharmacy
		* would allow someone to step in when the regular pharmacists is going to be gone
		* some pharmacists travel and fill in for absent pharmacists and are the one ultimately responsible for the operation
		* pharmacists can step in and run the operations
		* could not make their services available to the public
		* legislature has recognized categories that deserve to be recognized as independent contractors
086		* explains tax consequences
		Issues discussed:
		* whether SB 776-A could cover all pharmacists
105		* how companies could set up contracts for all pharmacists
		* workers compensation coverage
		* differences between opinions of Department of Revenue and Employment Department
126		* job description of pharmacist, and supervisory authority
		* whether out-of-state licensees could contract in Oregon
		* insurance and bond coverage
146		* conformity between federal government and Employment Department
		* number of licensed pharmacists in Oregon
170	Michelle Kennedy	Manager, Fiscal, Performance and Planning, Oregon Employment Department, testifies in opposition to SB 776-A (EXHIBIT A).
225	Kennedy	Continues presentation.
271	Rep. Harper	Asks which criteria the pharmacists would not meet.
		Manager, Unemployment Insurance Tax, Oregon Employment Department, explains the pharmacists fail to have an independently

278	Donna Hunter	established business; they are just another temporary employee working for a temporary employment service as many professional types of occupations do.
285		Discussion is held on court case.
310	Hunter	Adds that since law was passed in 1989, there has only been one different case in application between the Department of Revenue, the Employment Department and Workers Compensation; it has been applied consistently among the agencies except for this one case this legislation is meant to cure.
		Issues discussed
320		* application process and determination of contractor status
		* whether SB 776-A would automatically qualify pharmacists as contractors
370	Hunter	Adds they and the Governor became concerned with the passage of a bill on interpreters.
375	Chair Montgomery	Closes the public hearing on SB 776-A, announces the committee will not go into work session on the bill, and opens the public hearing on HB 3705-B.
<u>HB 3705-B - PUBLIC HEARING</u>		
410	Chair Montgomery	Asks that Mr. Putman review the provisions of SB 3705-B, and ask why the bill did not go to the Floor from the Ways and Means Committee.
410	Keith Putman	Administrator, explains there was a desire to have a substantive amendment made to the bill, and reviews provisions of HB 3705-B and the HB 3705-B8 amendments (EXHIBIT B).
414	Rep. Deckert	Reviews the history of HB 3705-B, and explains that the proposed amendments. (EXHIBIT B) were made at the request of the governor's office and would move the exceptions from five percent to twenty percent.
TAPE 140, A		
011	Rep. Lokan	Comments she has worked with Rep. Deckert on HB 3705-B and believes the amendment would speak to the exemption situation on cars that are not used sufficiently to meet the requirement of having to sell them if there are too many cars in the motor pool.
020	Rich Peppers	Political Director, Oregon Public Employees Union (OPEU), testifies in opposition to HB 3705-A (EXHIBIT C).
065	Rep. Lokan	Comments that Section 3 (1) speaks to the human resource needs for driving a car.
088	Peppers	Continues presentation (EXHIBIT C).
139	Rep. Wells	Asks if there is a priority on this bill.
	Chair	

143	Montgomery	Explains the history of the bill.
151	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME), testifies that they have concerns about implementation-- how this bill would work;.
		* concerned about the liability question of who is responsible for damage to an individual's car
		* liability and responsibility if employee acts inappropriately
		Issues discussed:
190		* whether state cars are equipped to handle clients
209	Rep. Deckert	Explains the -B8 amendments allow a 20 percent exception to take care of transport of clients.
219	Rep. Lehman	Asks if the issues raised are not the details and whether they can be taken care of by rule making or by bargaining.
225	Botkin	Responds she agrees, but has found it is always good to have the concerns on the record so when the rule making process begin everybody knows it is on the record and that the legislature concurred, at least at some level, that those are legitimate concerns and need to be dealt with.
242	Chair Montgomery	Comments it is not the intent of the committee to rework the bill.
245	Rep. Wells	Questions whether an employee should be expected to provide his/her own private vehicle in any way with the work he/she is doing, private or public.
267	Rep. Deckert	Compares HB 3705-B to 1995 legislation. Adds that this bill deals with cost efficiency and with surplus vehicles within the motor pool fleet, and that about one in four public employees use their private vehicles by choice.
290		Discussion is held on why DAS cannot do this without legislation.
309	Pepper	Comments the issue is not the formula that determines how many cars should be in the motor pool; the issue is the exemptions, and the concern is that the bill is not clear enough to feel safe about what the exemptions entail and the uncertainty about the definitions.
318	Chair Montgomery	Closes the public hearing and opens the work session on HB 3705-B.
<u>HB 3705-B - WORK SESSION</u>		
340	Rep. Harper	MOTION: Moves to ADOPT HB 3705-B8 amendments dated 06/20/97.
		VOTE: 7-0
	Chair Montgomery	Hearing no objection, declares the motion CARRIED.

343	Rep. Harper	MOTION: Moves HB 3705-B to the floor with a DO PASS AS AMENDED recommendation.
348	Rep. Roberts	Comments that a portion of state government meets once every two years and is asked to force a management decision on an agency that should be doing its own thing, and it is upsetting the legislature has to do their job for them.
356	Chair Montgomery	Comments he agrees with Rep. Roberts and adds that with term limits the legislature will have to do more of it.
361	Rep. Lehman	Comments Rep. Deckert has worked this bill very, very well and has gone through changes in the process and should be commended for taking the issue on. Adds his personal intent is that this is meant to get rid of excess vehicles; it is not meant to impact employees and if that becomes a problem, he would hope it is taken care of by rule.
376	Chair Montgomery	Adds that he agrees with Rep. Lehman to get rid of cars.
377	Rep. Lokan	Comments she does not regard this as a slap on management; believes it is a change in policy where we are looking at where it becomes cost effective to sell a vehicle and not keep it in the motor pool.
387		VOTE: 5-2 AYE: 5 - Harper, Josi, Lehman, Lokan, Montgomery NAY: 2 - Roberts, Wells
	Chair Montgomery	The motion CARRIES. REP. DECKERT will lead discussion on the floor.
393	Chair Montgomery	Closes the work session on HB 3705-B and opens the public hearing on SB 63-A.
TAPE 139, B		
SB 63-A- PUBLIC HEARING		
002	Keith Putman	Administrator, reviews provisions of SB 63-A, and the conflict amendments (EXHIBIT K).
017	Sen. Bob Kintigh	Proposes amendment to insert on page 2, in line 12, "human" because people who do horse massage therapy were told they would have to take training in human message in order to do horse massage therapy.
029	Jeff Watkins	American Massage Therapy Association, testifies in support of SB 63-A.
034	Glenath Moyle	Member, Board of Massage Technicians, submits a prepared statement and testifies in support of SB 63-A (EXHIBIT D).
037	Chair Montgomery	Closes the public hearing and opens the work session on SB 63-A.

<u>SB 63-A - WORK SESSION</u>		
044	Rep. Josi	MOTION: Moves to ADOPT SB 63-A4 amendments dated 06/06/97.
042		VOTE: 5-0 EXCUSED: 2 - Roberts, Wells
	Chair Montgomery	Hearing no objection, declares the motion CARRIED.
045	Rep. Josi	MOTION: Moves SB 63-A to the floor with a DO PASS AS AMENDED recommendation.
047		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Roberts, Wells
	Chair Montgomery	The motion CARRIES. REP. LEHMAN will lead discussion on the floor.
055	Chair Montgomery	Closes the work session on SB 63-A and opens the public hearing on SB 533-A.
<u>SB 533-A - PUBLIC HEARING</u>		
056	Keith Putman	Administrator, reviews provisions of SB 533-A and the SB 533-A2 amendments (EXHIBIT F).
101	Chair Montgomery	Asks if there is a definition of "non-retail customer".
110	John McCulley	Agricultural Cooperative Council of Oregon, testifies in support of SB 533-A (EXHIBIT E).
		Issues discussed:
159		* rationale for going from 2,400 gallons to 1,000 gallons
		* why additional business should be allowed to use cardlock operations
182	Sen. Ted Ferrioli	Explains that gas stations close at 6:00 p.m. and it is a matter of convenience and availability.
198		* -A2 amendments are a result of complaints from cardlock facilities having to keep voluminous records, and complaints from people who do not like the cardlocks who register complaints with the Oregon Department of State Police
		* State Police do an investigation of the license plate numbers; if the vehicle being fueled is not owned by the business or controlled or leased by the business, a \$100 citation results

		* cardlock owner received a \$100 citation for filling his wife's car at his own station; car was not registered in the corporate name.
		Issues discussed:
231		* whether the bill would prohibit violations
		* whether the -A2 amendments do what they are intended to do
255		* whether the 2,400 gallon limit is per business or vehicle
288		* 1991 legislation
326		* effect on retail operations
378		* requirements for meeting documentation
409	Rob Douglas	Truax Harris Energy, testifies that they support Sen. Ferrioli's amendment in concept:
		* believe it gets at the situation where people who own the cars use them for business and are reimbursed by the business for the mileage; they would not fit into the exemption if the car had to be owned or leased by the business
		* concerned with lowering gallonage; feels it breaks faith with the deal passed in 1991
TAPE 140, B		
		Issues discussed:
012		* whether 2,400 gallon exempts a lot of small businesses
		* process to achieve cardlock status
		* 1991 legislation
053	Carol Washburn	Compliance Service Manager, Cardlock Unit, Office of State Fire Marshall, testifies on SB 533-A (EXHIBIT G).
075		* reads definition of "non-retail customer" from administrative rules
		* Oregon State Police do not patrol or sit at cardlock facilities to register complaints
100		* bill would increase number of audits to be performed; would anticipate an increase of one Program Representative I and an Office Specialist to do the data process and paper flow
		Issues discussed:
129		* fiscal impact of deletion of language "owned or leased and"
		* number of violations in last year
		* whether the amendment would have an additional fiscal impact
142		* 16,500 customers and six citations
170	Mike Sherlock	Executive Director, Oregon Gasoline Dealers Association, testifies in opposition to SB 533-A (EXHIBIT H).
		Issues discussed:
221		* whether jobbers own the cardlocks

243	Carol Washburn	Clarifies that six citations were for audits and probably 15-20 citations were issued for complaints.
265	Chair Montgomery	Closes the public hearing and opens the work session on SB 533-A.
<u>SB 533-A - WORK SESSION</u>		
258	Rep. Harper	Comments he feels the proposed amendments reduce the work load and agrees with the testimony.
274	Rep. Harper	MOTION: Moves to ADOPT SB 533-A2 amendments dated 05/30/97.
278	Rep. Lehman	Comments: "Rep. Harper is right. This reduces the work load on the assumption we don't enforce the law. If we want to go to self-serve gas, we can do that, but if we are going to have some control over cardlocks, you have to either ignore it and not worry about who fills up, which I think is what Rep. Harper is suggesting, which does reduce the work load, or you have to have a means of checking up on who is using the cardlock. Now you are into an audit situation and have to send out to see if the vehicle is "used for business." I think the whole bill is a step in the wrong direction, but I think these amendments particularly are."
277	Rep. Lokan	Comments: "I have some concerns as well from the standpoint of providing some unfair competition."
291	Chair Montgomery	Notes there is a lack of affirmative votes on Rep. Harper's motion on the amendments.
293	Rep. Harper	Withdraws his motion.
286	Rep. Harper	MOTION: Moves SB 533-A to the floor with a DO PASS recommendation.
297	Rep. Harper	Explains this is a small business measure, particularly in rural Oregon and it is true that sometimes, particularly in the dark hours, this is the only thing that is open.
302	Chair Montgomery	Comments SB 533-A has not been to Ways and Means and asks if it should go to Ways and Means.
312	Carol Washburn	Advises the committee these are "other funds" and it was felt that it does not need to go to Ways and Means.
318	Rep. Wells	Comments: "This issue is tough. I really like to support the co-ops and do remember the issue from 1991. This is a tough deal when we start messing with this in relation to our self-serve laws. I hate to have to vote on this at all."
330	Rep. Josi	Comments: "Let me tell you why I am going to vote no. I think the two representatives of the Oregon Gasoline Dealers Association have some very compelling reasons. Brokered deals did intend commercial businesses to access the cardlocks. If we go over the threshold we are going to end up, and I believe Mr. Sherlock when he said the impact would be profound, closing some of the businesses down. Then, the net

		effect of that will be that we will have to go to self-serve. If you are for self-serve, I think this bill gets us there. It will take a while to get there but that is the unintended effect. I think in terms of all the small mom and pop businesses all over rural Oregon that dispense gasoline I will be in their court and in this case vote no."
348	Chair Montgomery	Comments: "I voted yes last time because they told me they would never bring it up again on changing the mileage and cardlock was all done and here we have this before us."
351		VOTE: 2-5 AYE: 2 - Harper, Roberts NAY: 5 - Josi, Lehman, Lokan, Wells, Montgomery
	Chair Montgomery	The motion FAILS.
360	Chair Montgomery	Closes the work session on SB 533-A and opens the public hearing on SB 1206-A.
<u>SB 1206-A - PUBLIC HEARING</u>		
345	Keith Putman	Reviews provisions of SB 1206-A.
	Steve Jacky	Assistant State Forester, Oregon Department of Forestry, testifies on SB 1206 (EXHIBIT I).
TAPE 141, A		
		Issues discussed:
		* private contracts and rental agreements with private aircraft operators
045		* why the bill has been proposed
		* SJR 6 and different requirements for public and private use
080		* whether all fire bombers would come under the bill
088	Lindsey Ball	Captain, Fish and Wildlife Division, Oregon State Police, introduces Jon Hunsaker, Coordinator, Air Craft Unit, Oregon State Police.
132	Sen. Gary George	Testifies in support of SB 1206-A:
		* Oregon has gone from an aircraft fleet of 21 to 14 or 15 aircraft
142		* need to have record of what is going on with the aircraft
		* every pilot keeps a log of flight information almost identical to what is required in SB 1206-A
155		* SB 1206-A gives discretion to Oregon Department of Transportation (ODOT) about when to collect the data
167		* cites costs of operation of aircraft
171		Issues discussed:

		* information is currently available; why is there a need for the bill
242		* uses of Oregon-owned aircraft
		* accountability for billings from federal government
		* need for full accounting on aircraft
262		* whether contractors should have the same requirements
291		* whether reporting requirements would apply to confidential transport operations
324	Gail Ryder	Oregon Newspaper Publishers Association, testifies in support of disclosure of information; (4) says the information is not subject to public inspection. Suggests amendments to delete words to retain access to records by the public.
371	Lindsey Ball and Jon Hunsaker	Oregon State Police, offer to respond to questions.
372	Rep. Lokan	Questions why the information was not available to Senator George.
	Ball	Explains they have copies of the records and the information is available, and that the reporting requirements could endanger someone's life, but have no problem reporting the hours and costs.
410		Discussion continues on records that could jeopardize cases.
<u>TAPE 142, A</u>		
020	Rep. Montgomery	Asks how many aircraft Washington has.
	Hunsaker	Responds Washington has a King Air 200, Beach Jet and five Cessna 182s for traffic enforcement.
	Ball	Adds that Washington Fish and Wildlife also has a fleet of aircraft (3).
038	Vice Chair Lehman	Closes the public hearing and opens the work session on SB 1206-A.
<u>SB 1206-A - WORK SESSION</u>		
046	Rep. Roberts	MOTION: Moves SB 1206-A to the floor with a DO PASS recommendation.
046		VOTE: 1-5 AYE: 1 - Roberts NAY: 5 - Harper, Josi, Lehman, Lokan, Montgomery EXCUSED: 1 - Wells
	Vice Chair Lehman	The motion FAILS.

Submitted By, Reviewed By,

Annetta Mullins, Keith Putman,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 776, prepared statement, Michelle Kennedy, 5 pp

B - HB 3705, HB 3705-B8 amendments, Rep. Deckert, 1 p

C - HB 3705, prepared statement, Rich Peppers, 3 pp

D - SB 63, prepared statement, Glenath Moyle, 1 p

E - SB 533, prepared statement, John McCulley, 1 p

F - SB 533, SB 533-A2 amendments, Rep. Ferrioli, 1 p

G - SB 533, prepared statement, Carol Washburn, 1 p

H - SB 533, prepared statement, Mike Sherlock, 1 p

I - SB 1206, prepared statement, Steve Jacky, 1 p

J - SB 1206, prepared statement, Jon Hunsaker, 4 pp

K - SB 63, SB 63-A4 amendments, staff, 2 pp