

HOUSE COMMITTEE ON TRANSPORTATION

June 26, 1997 Hearing Room C

8:30 A.M. Tapes 146 - 147

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 390-B - Public Hearing and Work Session

SB 1192-B - 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 146, A		
003	Chair Montgomery	Calls meeting to order at 8:32 a.m. and opens the public hearing on SB 1192-A.
<u>SB 1192-B - PUBLIC HEARING</u>		
011	Sen. Bill Fisher	Submits and explains SB 1192-B5 amendments (EXHIBIT A):
		* changes the date to which any of the Oregon Administrative Rules

		(OARs) that have been adopted by the Oregon Department of Fish and Wildlife (ODFW) would be subjected; limits it to the rules known as the Integrity Act and asks that the rules be redone and to list species that are banned rather than just list species one can have
026		* reads -B5 amendments
		* would not change OARs adopted prior to this regarding cervids or other species
036	Rep. Josi	Asks how many species the rules would apply to.
	Sen. Fisher	Responds he cannot answer the questions, and that is what the people are having to deal with on the outside, they are being shut down on everything and doesn't know how many things are being shut down. It takes onerous off the individual to try to fight the strengths and tax dollars that goes into ODFW to make a case to do something. It stops ODFW from being able to take a family and ruthlessly say the family is not legal when there are members of several different families of animals and critters that are certainly not any danger to the Oregon countryside, landscape, or water table
054	Chair Montgomery	Comments it is the same bill that has gone thorough the Senate and House committee hearings, and asks if it is here for housekeeping.
060	Sen. Fisher	Responds affirmatively.
062	Roy Elicker	Legislative Coordinator, Oregon Department of Fish and Wildlife, introduces Steve Williams, Acting Chief, Wildlife Division, Portland office, and testifies in opposition to SB 1192-B on two main concerns:
		* SB 1192-B nullifies an 18-month long effort of a fairly large citizen task force that has allowed the department to allow importation of, as of December 1997, 8,000 non-native wildlife species (on the list or due to be listed) that are allowed for sale, trade, barter, or whatever without a permit from ODFW.
		* Wildlife Integrity list contains three categories of non-native wildlife allowed in the state: uncontrolled (no limit, no permit), controlled, and prohibited
089		* about 1,100 mammals are not allowed in the state; 868 are bats
		* the bill would nullify and invalidate the 18-month efforts that is now allowing 8,000 species of wildlife to be brought to the state for the pet industry
		* to go back and validate those rules which are primarily by family and to rewrite them by species would mean the department would have to review in some manner, probably through the Wildlife Integrity Task Force, tens of thousands of species world wide to make an opinion on whether they would be safe to be allowed in the state
095	Rep. Wells	Comments that Dye Game Farm in Aumsville and Grandkid Acres in Sublimity are in his district, and asks if the department is familiar with them and their issues.
		Responds they have been in close contact with Michael Dye; he is a

	Elicker	breeder of non-native wildlife in the Salem area. Adds that at Mr. Dye's request a lot of the bovidae species are on the uncontrolled list, and on July 10, at Mr. Dye's request, the Integrity Task Force will be looking at species like black buck, Ibex, kangaroo, peccaries, porcupines, spring box, tep ears, wallabies, and wanamel pheasants, which the department does not think will be a problem. Adds that it will then go to the commission on August 10 and probably, with one or two exceptions, be added to the uncontrolled list at his request.
122	Rep. Wells	Asks if Mr. Eicker is familiar with Grandkid Acres.
	Eicker	Responds he is not familiar with Grandkid Acres.
126	Rep. Wells	Comments he think the two operate about the same and would think that since Dye Game Farm is taken care, Grandkid Acres would be also.
126	Elicker	Comments they have made efforts to reach out to people who may have concerns and work with them. Adds that the way the current rules are written if someone comes forward on an emergency basis, there is a special provision that a temporary rule can be issued immediately to cover concerns on a particular species if needed.
138	Rep. Josi	Asks if there is a danger of disease when new species are introduced.
	Elicker	Responds that is the primary concern; bats carry rabies and other diseases that may be spread to other wildlife, and the red-eared slider carries turtle diseases, plus when they are released they out-compete the native pond turtles in the valley.
161	Rep. Harper	Asks what the bill is attempting to fix.
169	Sen. Fisher	Explains the problem arose when the Integrity rules were promulgated and adopted and ODFW went out and started hitting the pet market and the arts and crafts market selling animal parts okayed by the federal government.
200		* cites craft business selling turtle shells from turtle slaughter houses in Iowa and other places
		* pet dealers could not sell something they have sold for years because it is not listed
226	Rep. Harper	Asks how the bill fixes the particular problem involving the turtle shells.
	Sen. Fisher	Responds the bill would force them to look at specie by specie and stops the individual from having the onerous on him of trying to overpower ODFW.
248	Keith Putman	Administrator, asks if the amendments put the Integrity rule in abeyance.
	Sen. Fisher	Responds he doesn't feel that way. Explains it forces ODFW, when they find something that has been here, to take action on it, and adds he believes ODFW can convert from "family" to "species" without that much trouble. Adds that it will make them look at it in a different way instead of being able to easily ban anything they don't have on the list; they will have to at least be honest with the person and come up with

		some reasonable rules why it should be prohibited.
259	Rep. Lokan	Asks if other states are encountering the same problems.
264	Steve Williams	Acting Chief, Wildlife Division, responds various states have dealt with exotic wildlife in various ways. The department looked at several western states, and that some states dealt with it as Oregon did and others did it as species came up; it has been done both ways. Adds the turtle issue is a problem in several states where there are native turtles.
298	Rep. Lokan	Asks if it has proven to be a problem.
299	Williams	Responds other states have had to deal with the same problems.
300	Chair Montgomery	Asks if the turtle shell issue is taken care of.
	Elicker	Responds they have been working closely with Mr. Ike and have a temporary rule to allow him to deal in non-native turtle shells for his markets primarily outside the state and to allow him to sell non-native turtle shells in the state, and plan to have Acting Director Rod Ingram sign a temporary order within the next few weeks to take care of most of Mr. Ike's concerns on turtle shells, water buffalo bones, Australian opossums and African porcupines.
328	Chair Montgomery	Asks how long temporary is.
	Elicker	Responds they plan to issue a temporary order fairly quickly and at the August 22 commission meeting a permanent order.
337	Chair Montgomery	"For the record, staff's recommendation is promised to continue to let him work with the turtle shells and continue the business he is doing now."
337	Elicker	"That is correct."
339	Sen. Fisher	Comments that the bill also provides for an interim study and that is badly need because there has been a history of contention with ODFW on some of the things where individuals have had to take their action to court and all kinds of things have happened. Adds that he is not certain at this point in time that we are going to be having the people dealt with fairly over a considerable period of time, and would appreciate having an opportunity to work with this bill and have the task force put in by the House committee.
360	Chair Montgomery	Comments than the legislature can tell ODFW what the legislature wants and if they don't do it, then next session there can be a stronger law.
365	Rep. Wells	Asks if Dye Game Farm and Grandkid Acres need this bill.
	Elicker	Responds no, and adds that the department intends for them to both stay in business; it is not the intention of the department to harm any existing business in the state. Adds there may be times when species or live animals are wanted to be brought in that are going to end up on the prohibited list and that they will work through those situations.
	Chair	Notes the latest fiscal impact statement indicates the cost from minimal

401	Montgomery	to \$1.8 million.
425	Chair Montgomery	Closes the public hearing on SB 1192-B.
TAPE 147, A		
<u>SB 390-B - PUBLIC HEARING</u>		
011	Chair Montgomery	Opens the public hearing on SB 390-B.
014	Keith Putman	Administrator, reviews provisions of SB 390-B.
030	Stephen Kafoury	Architects Council of Oregon, introduces Ben Sheldon and testifies in support of SB 390-B:
		* explains process for selecting architects and engineers: fee bid--ask how much it is going to cost to do the work, and to ask for qualifications of the person, usually define what the details of the work will be, and negotiate a fee based on the mutually defined scope of work
045		* problem with asking for a fee before scope of work has been defined is there is nothing to base a fee on
		* it is the law in 35 states, and practiced by a number of agencies in Oregon presently
		* it is only a problem because of conceptual difficulty that you can save money by not asking for a fee--it is counter intuitive; the actuality of the situation is you can save money by not asking for a fee--that is the result of studies
		* everyone who is not a purchaser of public services supports this concept; some who are purchasers of public services do not support this concept
		* lists groups that favor SB 390-B
085	Rep. Wells	Comments the issue is where the price fits in, and asks if this swings too far where price is not looked at.
087	Kafoury	Explains price is an important factor in the selection after the details have been worked out. Adds that the bill also allows a person to look at prices on similar past projects.
109	Ben Sheldon	Architect, comments on the Portland Building, and adds their firm is working on Portland City Hall remodel which went through a process described by Mr. Kafoury; the scope was determined and the price was agreed to mutually between the two parties.
120	Chair Montgomery	Asks if the designers and engineers of the Portland Building were certified by the state of Oregon.
153	Cam Birnie	Administrator, Transportation, Purchasing & Print Services Division, Department of Administrative Services, testifies in opposition to SB 390-B (EXHIBIT B).

191	Lisa Strader	Facilities Administrator, Oregon Department of Corrections, submits and summarizes a prepared statement in opposition to SB 390-B (EXHIBIT C).
220	Rep. Lehman	Asks if the Department of Corrections would have to go through the whole selection process if they wanted a survey done that they knew was a \$5,000 job.
229	Bill Tindall	Oregon Department of Transportation (ODOT), comments they have concerns about SB 390-B:
		* believes qualifications are important factor in selecting engineering consultants and surveyors, cost is also an important aspect to be considered
		* does not want to make it a low-bid process, but ODOT believes it is prudent to consider costs; bill would further restrict ODOT's ability to make decisions that appropriately balance costs and quality of the work
250	John Oshel	Tillamook County Director of Public Works, gives examples of why costs need to be considered:
		* if two firms are charging different costs and the quality is the same, it makes sense to take cost into account and use the less expensive firm
		* some engineering and surveying contracts have very clearly defined scopes of work--and you get down to the price
		* ODOT opposes SB 390-B; believes what is in the attorney general rules deals with the situation appropriately
274	Bill Penhollow	Association of Oregon Counties (AOC), submits a prepared statement (EXHIBIT D), introduces Bill Worcester and explains that Worcester was involved with AOC in developing a process but not quite consistent with the provisions that would be required by SB 390-B.
	Bill Worcester	Chief Engineer, Marion County Public Works, states he did work on the manual and before it was completed people were asking for the drafts to they could use it. Realizes the bill as written only applies to state agencies and thinks it is reasonable to assume that if it passes this session, industry will be back next session trying to make it apply to all public agencies. Would not want to see a one-size-fits-all apply to all agencies.
331	Rep. Lokan	Comments it seems the price can be considered very strongly and when the qualifications are set, the price is negotiated, and if they cannot agree on a price, then they go to the next most qualified candidate.
338	Penhollow	Comments that the attorney general rules do not include price in looking at qualifications, but do provide for compensation requirements. Explains that it is saying a general indication of cost may be requested and used along with consideration of the qualifications like hourly rates and fees, overhead costs, costs for similar projects, but not precisely the cost up front.
361	Chair	Asks that the record include the prepared statement in opposition to SB 390-B by Karen Brazeau, Oregon Youth Authority (EXHIBIT E), and

	Montgomery	that David Barenberg, League of Oregon Cities, and Ken Armstrong, Ports Association, are also opposed.
388	Chair Montgomery	Closes the public hearing and opens the work session on SB 390-B.
<u>SB 390-A - WORK SESSION</u>		
400	Rep. Harper	MOTION: Moves SB 390-B to the floor with a DO PASS recommendation.
404		VOTE: 4-2 AYE: 4 - Harper, Josi, Lokan, Roberts NAY: 2 - Wells, Montgomery EXCUSED: 1 - Lehman
	Chair Montgomery	The motion CARRIES. REP. LOKAN will lead discussion on the floor.
409	Rep. Roberts	Explains he voted aye here to get the bill to the floor for discussion, but that does not lock in his vote on the floor.
412	Rep. Josi	Explains he also will be voting no on the floor.
401	Chair Montgomery	Comments he will be voting no on the floor, announces that the committee will meet at the call of the chair, and adjourns the meeting at 9:28 a.m.

Submitted By, Reviewed By,

Annetta Mullins, Keith Putman,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 1192, SB 1192-5 amendments, Sen. Fisher, 1 p

B - SB 390, prepared statement, Cam Birnie, 3 pp

C - SB 390, prepared statement, Lisa Strader, 3 pp

D - SB 390, prepared statement, Bill Penhollow, 5 pp

E - SB 390, prepared statement, Karen Brazeau, 1 p