

SENATE COMMITTEE ON TRANSPORTATION

April 7, 1997 Hearing Room C

1:00 P.M. Tapes 53 - 54

MEMBERS PRESENT:

Sen. Marylin Shannon, Chair

Sen. Ken Baker, Vice-Chair

Sen. Joan Dukes

Sen. Gary George

Sen. Mae Yih

MEMBER EXCUSED:

STAFF PRESENT: Lin Ludwick, Administrator

Nora Carlson, Administrative Support

MEASURE/ISSUES HEARD:

SB 688 Public Hearing and Work Session

SB 804 Work Session

SB 1024 Public Hearing and Work Session

SB 925 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 53, A		
003	Chair Shannon	Calls meeting to order at 1:08 a.m. Opens public hearing on SB 688.
<u>SB 688 PUBLIC HEARING</u>		
010	Sen. Mae Yih	District 19, submits map outlining flood damage and provides testimony in support of SB 688 (EXHIBIT A).
074	Sen. Yih	Continues with testimony on railroads and submits proposed amendments to SB 688 (EXHIBIT B).

092	Jim Denham	General Counsel, Wah Chang Company, submits and provides testimony in support of SB 688 (EXHIBIT C).
157	Larry Hagel	Plan Engineer, Wah Chang Company, submits and provides testimony in support of SB 688 (included with Mr. Denham's testimony).
210	Hagel	Continues with testimony on flood flow rates.
244	Howard Fegels	Manager, Rail Safety Unit, Oregon Department of Transportation (ODOT) submits and provides testimony in support of SB 688 (EXHIBIT D).
309	Everett Cutter	Manager, Oregon Railroad Association, submits and provides testimony in opposition to SB 688 (EXHIBIT E).
378	Sen. Dukes	Questions Mr. Cutter's concern with a bill that would allow ODOT to order changes in railroad structures and operations.
405	Cutter	Responds that most of the requirements already exist; that the bill gives ODOT the authority to order changes that go beyond notification.
TAPE 54, A		
030	Sen. Dukes	Asks if Mr. Cutter has other alternatives to suggest.
032	Cutter	Refers to the notification process cited in his testimony.
036	Sen. Baker	Refers to ORS 824.050 and asks about the impact to facilities, the effect on their manpower and related responsibilities.
046	Cutter	Responds that he does not have the answers.
063	Sen. Yih	Explains that the bill is being amended to include language that railroads shall be notified if a roadbed or track structure poses a danger to property.
075	Sen. Baker	Comments that ODOT already has notification authority.
082	Sen. Baker	Asks about the corrective actions taken at the Millersburg site.
085	Cutter	Responds that the engineering forces of the two railroads are involved and they are working on the specifications in concert with ODOT.
095	Dick Kizer	Albany resident, displays photograph of flood damage and provides testimony in support of SB 688.
160	Ted Schaecher	Salem resident, submits photograph and provides testimony in support of SB 688 (EXHIBIT F).
209	Schaecher	Continues with testimony on the loss of rental property due to flooding.
250	Dennis Venable	Albany resident, submits photo and testimony in support of SB 688 (EXHIBIT G).
311	Sen. George	Asks if the culvert problems downstream from his house caused the water to backup onto his property.
322	Venable	Responds that due to the inadequacy of the small culvert, flood waters may have expanded and made the flooding worse.
340	Becky	Tangent resident, provides testimony in support of SB 688.

	Owen	
420	Owen	Continues with testimony on the maintenance of flood debris.
TAPE 53, B		
040	Michael Root	President, Willamette Valley Railroad, provides testimony in opposition to SB 688.
065	Sen. Yih	Asks whether he wants to be notified when there is a condition that could cause danger to adjacent property and his railroad tracks.
068	Root	Explains that they do not have a problem with being notified, their concern would be with ODOT's change to structure requirements.
085	Sen. Yih	Asks to describe his objections.
087	Root	Responds that his objection is allowing ODOT to tell him what needs to be repaired.
092	Sen. Yih	Explains that the notification process involves a hearing that would allow him to present his arguments.
115	Root	Responds that most of the time the culverts are satisfactory but with all of the new development, water needs to go somewhere.
120	Sen. Yih	Comments that if proper repairs are made, ODOT will not become involved.
132	Root	Responds that he would prefer that ODOT not be the regulatory agency on this bill.
138	Sen. Yih	Explains that the provisions are for public safety.
147	Sen. Baker	Clarifies Mr. Root's concerns that there are uphill and downhill systems that change the water flow and requirements do not take into account other factors.
175	Sen. Baker	Asks if a state agency would have the authority to require other agencies or counties to change their culverts.
177	Root	Agrees that they would have the authority.
178	Sen. Dukes	Asks if there is some point in the process when decisions leave the rail section and involve highway engineers.
180	Root	Responds that if ODOT was out inspecting and found a culvert problem then ODOT would bring in someone with drainage expertise.
192	Sen. Dukes	Comments that she will probably oppose the bill if this becomes the process.
219	Sen. Dukes	Asks who is in charge of the process.
229	Fegels	Respond that if ODOT finds a problem they may need to go to some other section within ODOT to make a determination.
259	Sen. Dukes	Asks if it was decided that there needed to be a better solution than existed, would they have the expertise in house or would they go to the engineers in ODOT.

262	Fegels	Responds that that they have the expertise for railroad structures but if it impacts a drainage field or watershed they do not.
265	Sen. Dukes	Asks about the time and money involved to seek outside assistance.
270	Fegels	Responds that he hopes this will not create a burden on their inspection force.
289	Sen. Baker	Asks about the number of inspectors in Oregon.
291	Fegels	Responds that Oregon has five inspectors: two in employee safety and three in the federal-state partnership program.
299	Sen. George	Asks if they have the ability to inform other agencies if there is a problem that needs repaired.
300	Fegels	Responds that if they see a problem that affects the railroad, they will notify the appropriate agency.
302	Chair Shannon	Closes work session on SB 688; opens work session on SB 688.
<u>SB 688 WORK SESSION</u>		
315	Sen. Yih	MOTION: Moves to ADOPT SB 688-1 amendments dated 3/12/97.
320	Chair Shannon	Hearing no objection, declares the motion CARRIED.
322	Sen. Yih	MOTION: Moves SB 688 to the floor with a DO PASS AS AMENDED recommendation.
340	Sen. Yih	Explains the purpose of the bill.
360		VOTE: 4-1 AYE: 4 - Dukes, George, Yih, Shannon NAY: 1 - Baker
362	Chair Shannon	The motion CARRIES. SEN. YIH will lead discussion on the floor.
370	Chair Shannon	Closes work session on SB 688; opens public hearing on SB 1024.
<u>SB 1024 PUBLIC HEARING</u>		
400	Michael Root	President, Willamette Valley Railroad, provides testimony in support of SB 1024 and issues concerning trespassers and posting requirements.
TAPE 54, B		

039	Sen. Dukes	Refers to the rail line that runs into Astoria that was rail banked (closed) and asks how it fits into the bill.
059	Root	Describes their concerns with the right of ways where trains run through every day and comments on problems with local law enforcement agencies when accidents occur.
085	Sen. Baker	Asks if their company owns other property besides the rail bed.
090	Root	Responds that they own a 60-foot right of way.
092	Sen. Baker	Questions concerning "recreational use" liability.
110	Claudia Howell	Rail Manager, ODOT, submits and provides testimony in support of SB 1024 on issues concerning fatalities at railroad crossing and penalty provisions (EXHIBIT H).
168	Chair Shannon	Asks Mr. Everett if he is going to suggest amendments.
170	Everett Cutter	Manager, Oregon Railroad Association, confirms that he will propose amendments.
174	Henry White	Willamette Railroad, locomotive engineer, provides testimony in support of SB 1024.
204	Sen. Baker	Suggests that amendments should address the limitation of liability issues.
217	Chair Shannon	Closes public hearing on SB 1024; opens work session on SB 804.
<u>SB 804 WORK SESSION</u>		
230	Sen. Yih	District 19, provides testimony in support of SB 804.
270	Jon Chandler	Representing the Building Industry Association, comments that they will look at storm water detention ponds as a possible alternative.
275	Sen. Yih	MOTION: Moves SB 804 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Livability.
277	Chair Shannon	Hearing no objection, declares the motion CARRIED.
330	Chair Shannon	Closes work session on SB 804; opens work session on SB 925.
<u>SB 925 WORK SESSION</u>		
339	Sen. Dukes	Provides testimony on proposed amendments in support of SB 925.
365	Sen. Baker	Asks if the three parcels of property predated the agreement.
367	Sen. Dukes	Agrees that property predates agreement.
389	Sen. Yih	Asks if the bill will set a precedent on the transfer of property.
390	Sen. Dukes	Responds that bill language does not require ODOT to transfer property and reads that ODOT "may" transfer property.

424	Sen. Dukes	MOTION: Moves to ADOPT SB 925-1 amendments dated 3/31/97.
425	Chair Shannon	Hearing no objection, declares the motion CARRIED.
426	Sen. Dukes	MOTION: Moves to ADOPT SB 925-2 amendments dated 4/3/97.
427	Chair Shannon	Hearing no objection, declares the motion CARRIED.
430	Sen. Dukes	MOTION: Moves SB 925 to the floor with a DO PASS AS AMENDED recommendation.
432	Chair Shannon	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES. SEN. DUKES will lead discussion on the floor.
440	Chair Shannon	Adjourns meeting at 3:02 p.m.

Submitted By, Reviewed By,

Nora Carlson, Lin Ludwick,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 688, photograph, Mae Yih, 1 p

B - SB 688, proposed amendments, Mae Yih, 1 p

C - SB 688, written testimony, Jim Denham and Larry Hagel, 12 pp

D - SB 688, written testimony, Howard Fegels, 2 pp

E - SB 688, written testimony, Everett Cutter, 2 pp

F - SB 688, written testimony, Ted Schaecher, 10 pp

G - SB 688, written testimony, D.C. Venable, 2 pp

H - SB 1024, written testimony, Claudia Howell, 1 p