

HOUSE COMMITTEE ON
GENERAL GOVERNMENT & REGULATORY REFORM
SUBCOMMITTEE ON REGULATORY REFORM

April 17, 1995 Hearing Room
1:15 p.m. Tapes 27 - 28

MEMBERS PRESENT:

Rep. Ken Strobeck, Chair
Rep. Sharon Wylie, Vice-Chair
Rep. Jerry Grisham
Rep. Bryan Johnston
Rep. Charles Starr

STAFF PRESENT:

Greg Moore, Committee Counsel
Annetta Mullins, Committee Assistant

MEASURES HEARD:

HB 2764 - WORK SESSION
HB 3389 - WORK SESSION
HB 2923 - WORK SESSION
HB 2832 - WORK SESSION
HB 2293 - WORK SESSION
HB 3447 - PUBLIC HEARING AND WORK SESSION
SB 109-A - PUBLIC HEARING AND WORK SESSION
SB 306 - PUBLIC HEARING

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE 27, A

010 CHAIR STROBECK: Calls the meeting to order at 1:18 p.m., announces this
is the last meeting of this subcommittee and opens the work session on HB
2764.

HB 2764 - WORK SESSION

GREG MOORE, Committee Counsel: Reviews the provisions of the bill.

> allows state agencies to opt out of the requirement to use the state
printer for printing needs
> also applies to purchasing
> agency would be able to provide notice to DAS where upon the agency would

be free from having to use DAS supported services
> agencies would contract directly

024 CHAIR STROBECK: Reviews testimony of witnesses during the public
hearings.

Also in meeting with Mr. Birnie and Mr. FRIESE, it was suggested they get
together with the private printing industry and do a comprehensive review
of the printing plant the State of Oregon is operating. The letter from
Jon Yunkers outlines the agreement (EXHIBIT A).

044 MOTION: REP. JOHNSTON moves that HB 2764 be sent to the Full Committee
with a DO PASS RECOMMENDATION.

045 VOTE: In a roll call vote, all members present vote AYE. REP. WYLIE
IS EXCUSED.

049 CHAIR STROBECK: Declares the motion PASSED and expresses his
appreciation for all those who participated in working on the bill.

050 CHAIR STROBECK: Opens the work session on HB 3389.

HB 3389 - WORK SESSION

055 MR. MOORE: Reviews the HB 3389-8 amendments (EXHIBIT B).
> amendments were submitted by Oregon Taxpayers United in effort to narrow
the focus of the original bill to not allow the competition between the
private and public sector in athletic clubs and park and recreation
districts

095 CHAIR STROBECK: Where does the amendment talk about athletic clubs or
facilities?

095 MR. MOORE: It is very broad and is in the last paragraph on page 2 of the amendment.

REP. STROBECK: As I understood it, the scope was to be narrowed to athletic and recreational facilities, not the language which is identical to the original bill.

112 MR. MOORE: Advises the direction of the sponsors was to narrow it.

A letter received from the Consulting Engineers Council of Oregon is hereby made a part of these minutes (EXHIBIT C).

118 CHAIR STROBECK: Closes the work session on HB 3389 and announces that the bill could be called up to the Full Committee by the Chair

114 CHAIR STROBECK: Opens the work session on HB 2923.

122 HB 2923 - WORK SESSION

126 MR. MOORE: Explains HB 2923 deals with road restoration. The bill allows the county or city to recover damages for road cuts when repairs are

not adequately made.. Summarizes work group meeting

> work group concluded there is great concern that road cuts be done in a professional and coordinated manner

> example given was Intel's activities to extend services across the road

> Intel is paying a fee for a more extensive repair than the cost would be

for back-filling in trench and covering with asphalt

> the next higher level is called a T-repair; higher level seeks to go out 10-12 feet because anytime a road is cut the seal is broken

> Washington County requires that private entities pay for some of the depreciation of the roadbed; this allows Washington County to re-pave the road sooner than they could have otherwise

172 REP. JOHNSTON: Are the amendments (EXHIBIT D) a product of the working group?

MR. MOORE: The amendments were the focal point of the meeting. The longer the group went on, the consensus was there really isn't a problem with utilities. If they don't do it right, they are called back to do it right.

A private party has to post a bond. Concern was really on franchise fees; counties do not have, like cities, the ability to charge franchise fees. The problem of road cuts was been in the high growth counties in the state.

As far as the membership on the group, there were approximately 10 lobbyist representing cities, counties, utilities, telecommunications, cable TV--a good representation.

202 CHAIR STROBECK: A bigger issue is outlined in a letter received from a lobbyist recommending the whole area ought to be re-examined and broadened out so it would be a state's franchise and would be reallocated on the basis of population. That is not a part of the amendment.

218 MR. MOORE: The -99 amendments don't contain that. The ultimate conclusion of the working group on the -99 amendment was that this is an issue that needs to be looked at broader, and they would appreciate an interim review of it.

228 CHAIR STROBECK: Does this reflect the intent to collect for the damages to the roads that are not correctly repaired?

230 MR. MOORE: That was the scope of the -99 amendments. On page 2, line 22, it was the working group's belief that subparagraphs 4, 5, 6, and 7, were remnants of the original bill that should not be there. In place of that language at page 2, line 21 following "fee" we added "shall charge the

person a road surface damage fee equal to the actual costs of repairs". The --99 amendments as amended by the working group, simply would focus on the cost to have the county make the repairs that should have been made by the contractor or utility.

The working group also discussed that on page 1, line 14, "utility" should indicate it includes "person" because the last sentence indicates "when any person causes road damage". The group wanted to make it clear that utilities are people. It would need to be cleaned up in line 14 to broaden the definition of utility or at line 24 to add "when any person or utility"...causes road surface damage.

288 MOTION: CHAIR STROBECK moves that the HB 2923-99 amendments be amended
on page 1, in line 24, after "person" insert "or utility".

289 VOTE: CHAIR STROBECK, hearing no objection to the motion, declares the
motion PASSED. REP. WYLIE IS EXCUSED.

290 MR. MOORE: Another omission was water and sewer. Water is mentioned
but only in the context of a cooperative corporation. The definition of
utility should be amended to add "f" and "g" to specify that any water
district or sewer district would be included as a utility.

299 MOTION: CHAIR STROBECK moves that the HB 2923-99 amendments be further
amended: on page 1, after line 23, insert "(f) water district" and "(g)
sewer district".

300 VOTE: CHAIR STROBECK, hearing no objection to the motion, declares the
motion PASSED. REP. WYLIE IS EXCUSED.

305 MR. MOORE: On page 2, line 8, the working group did not get to the
point of discussing how many days would be appropriate to allow following
the notice that initial repairs were inadequate before allowing the county
or city to go back out and conduct the repairs.

313 CHAIR STROBECK: There is a reference to 45 days.

314 MOTION: REP. STROBECK moves that on page 2, in line 8 in the blank,
insert "45".

316 MR. MOORE: In line 21, the committee discussed deleting the period, and
adding "the actual cost of repairs."

330 REP. JOHNSON: Suggest the language not be amended and comments that
something needs to be done with this during the interim. Let's admit this
is a Band-Aid and go on.

334 MR. MOORE: Page 2, lines 22 through line 24 on page 3 do not need to be
included. Section 3 on page 2 is a different situation. Several people on
the working group felt that was a statement unrelated to this concept of
road repair; this dealt with coordination. If the county or city was going
to be repairing a road at some future date, the contractors would have
notice they should get in and make their cuts now or notify the county or
city they would be cutting in six months. It probably is not an
appropriate amendment in this bill.

356 MOTION: CHAIR STROBECK moves that Section 3 on page 3 of the HB 2923- 99
amendments BE DELETED.

VOTE: CHAIR STROBECK, hearing no objection to the motion, declares the
motion PASSED. REP. WYLIE IS EXCUSED.

360 MR. MOORE: Advises the committee that members of the working group are
in the audience and recommends that those members who had different points
of view be allowed to speak.

370 BILL PENHOLLOW, Association of Oregon Counties: The working group had
a good interchange. I think we could live with the provisions if it was
the chair's intent to see if we could get the bigger issue referred to an
interim committee and better refine this and other provisions relating to
utilities using the rights of way.

372 DENIS MCPHAIL, Portland General Electric: There are a couple of issues
left in the amendments that are a concern. One is when you are defining
who is out there. There are competitors who are the long distance
carriers who are working in the rights of way and some special sewer and
water districts are not covered. Cities have many statutory rights over
utilities. They can and do charge us, they can permit us and regulate us
by statute. We would like to see cities out of here. They don't need any
additional powers in this arena. Almost every paragraph has "cities" in
then. On page 2, lines 19 and 20 is the language that gives utilities
the right to be in the right of way free of charge. That is our shield
from the counties being able to tax utilities. Does that compromises our
ability to withstand a franchise tax? The last time they had a franchise
tax, it was about \$55 million to our customers. There is no way I could
support a bill that would put that kind of imposition on our customers.
With those provisions, as far as I understand what you have been doing, we
are okay.

TAPE 28, A

013 DAVID BARENBERG, League of Oregon Cities: In response to Denise's
comments whether cities need to be included in this provision as cities
have existing franchise agreements and statutory rights, we would be
willing to look at and discuss that with the utilities. We don't see why
there would be a problem. We are not convinced it is necessarily redundant

at this time.

026 TOM BERRY, Northwest Natural Gas: As a public utility we may be the largest one in Washington County because everything we do is underground. We would like to look at the amendments before you pass any bill.

030 CHAIR STROBECK: I will get together with Counsel and perhaps others to further work on the amendments and may bring this up to the full committee at some point.

037 CHAIR STROBECK: Closes the work session on HB 2923 and opens the work session on HB 2832.

HB 2832 - WORK SESSION

039 MR. MOORE: Explains that the committee took testimony on HB 2832 last week and did not have the necessary number of members present to deal with it. Explains the provisions of the bill.

074 MOTION: REP. JOHNSTON moves that HB 2832 be sent to the Full Committee with a DO PASS RECOMMENDATION.

VOTE: In a roll call vote, all members present vote AYE. REP. WYLIE IS EXCUSED.

077 CHAIR STROBECK: Declares the motion PASSED.

077 CHAIR STROBECK: Opens the work session on HB 2293.

HB 2293 - WORK SESSION

A prepared statement FAXED to the committee by Gail Ryder, Oregon Newspaper Publishers Association, is hereby made a part of these minutes (EXHIBIT E).

084 MR. MOORE: Reviews the provisions of the bill and the -2 amendments submitted previously. The bill would require that the real estate commissioner not publish names but require, as consistent with other language for other professional oversight agencies, that the information is

public if requested. It simply would deprive the real estate commissioner

of positively and affirmatively sending it to anybody unless requested. The -2 amendments read, "the commissioner shall not release information to the news media until after all periods for appeal have expired, or if the matter is appeal, until after the final appellate decisions is rendered. However, upon specific request the commissioner may release such information relating to any specific case before the appeal is final."

097 CHAIR STROBECK: We talked in previous meetings about revising the language to say the commissioner shall not otherwise publicize information described in paragraph (a) of the subsection which would have the effect of

allowing it to continue to be published in the Real Estate News Journal and

could still be published in the news media. It would not otherwise be publicized until the final order.

107 MOTION: REP. STARR moves that the HB 2293-2 amendments be amended: "The commissioner shall not otherwise publicize information described in paragraph (a) of this subsection."

VOTE: CHAIR STROBECK, hearing no objection, declares the motion PASSED. REP. WYLIE IS EXCUSED.

121 MOTION: REP. STARR moves that HB 2293, as amended, be sent to the Full Committee with a DO PASS RECOMMENDATION.

124 VOTE: In a roll call vote, REPS. GRISHAM, STARR AND CHAIR STROBECK VOTE

AYE. REP. JOHNSTON VOTES NO. REP. WYLIE IS EXCUSED.

130 CHAIR STROBECK: Closes the work session on HB 2293 and opens the public hearing on HB 3347.

HB 3347 - PUBLIC HEARING

Witnesses: Lt. Mike Caldwell
Maj. Fred Reese

MR. MOORE: Reviews the Preliminary Staff Measure Summary (EXHIBIT F).

166 MAJOR GENERAL FRED REESE, Adjunct General of Oregon: Testifies in support of HB 3347.
> bill was introduced to correct a perceived substantial problem in the current statutes as it relates to civilian employees of the Oregon National

Guard

> Guard has operated under existing law that requires that all full time employees be either in the Oregon National Guard or that they have membership in the Oregon State Defense Force
177 > explains differences between Oregon National Guard and the Oregon State Defense Force
199 > HB 3447 is necessary to ensure that in the event of a state emergency that certain state employees are obligated to respond in support of the guardsmen and women employed on state active duty

220 LT. MIKE CALDWELL: Offers to answer questions.

227 REP. JOHNSTON: What kind of employees would you be talking about.

230 MAJOR FRED REESE: If we call the National Guard, they will be in state active duty. To administer that organization or to house them, I will require certain state employees to be able to do that. It would be as simple as having a time keeper and someone to open and maintain an armory, to make sure the boiler is running and those kinds of things that are necessary to take care of that force.

239 REP. JOHNSTON: Would the boiler keeper have to undergo some kind of military training in order to be eligible to be employed by the Guard?

MAJOR REESE: No, they would not. The federal standards we have to achieve in order to be members of the Oregon National Guard, we do not have to do that for the Oregon State Defense Force. It would be a state standard. In this case, my standard for these people would be if a person is a boiler tender, then that is what we want that person to be qualified to do.

255 CHAIR STROBECK: How many employees are we talking about?

MAJOR REESE: There are approximately 300 state employees out of 2,000 employees overall. Of that 300, we estimate perhaps as many as 10 percent would be put into this classification, roughly 30 people.

CHAIR STROBECK: When did this come up? Was it because of Desert Storm?

270 MAJOR. REESE: I was not here, but it is my understanding there was great concern about jobs and continued employment in the Military Department and there was an effort at that time to choose a union. When they went from the current statute which defines civilian employees in the military as unclassified, it automatically made them classified. We went to the attorney general's office for an opinion. The AG's office essentially said that this pre-empts the existing statute and the people can no longer be mandated into the ORSDF.

288 LT. CALDWELL: Most of our employees are currently in the National Guard or in the Oregon State Defense Force. We are talking about primarily new hires from this point forward. Most of them fell under the old statute and they maintain their membership.

307 CHAIR STROBECK: Closes the public hearing on HB 3447 and opens the work session on HB 3447.

HB 3447 - WORK SESSION

307 MOTION: REP. STARR moves that HB 3447 be sent to the Full Committee
with a DO PASS RECOMMENDATION.

309 VOTE: In a roll call vote, all members present vote AYE. REP. WYLIE IS EXCUSED.

311 CHAIR STROBECK: Declares the motion PASSED.

314 CHAIR STROBECK: Opens the public hearing on SB 109-A.

SB 109 A - PUBLIC HEARING

Witnesses: Jon Mangis, Director, Oregon Dept. of Veterans Affairs

319 MR. MOORE: Reviews the provisions of the bill. The Senate Staff Measure Summary and Legislative Fiscal and Revenue statements are hereby made a part of these minutes (EXHIBIT G).

345 JON MANGIS, Director, Oregon Department of Veterans Affairs: Submits and summarizes a prepared statement in support of SB 109-A (EXHIBIT H).

386 REP. JOHNSTON: What are examples of the types of situations in which the transfer of security occurs to a governmental unit?

390 MR. MANGIS: You would see it in condemnations, highway rights of way, a lot line adjustment by a governmental unit, etc. Currently, ODVA is required to make an adjustment to the interest rate if any part of the

initial mortgage is tampered with. For something like this, we don't like to do that.

404 CHAIR STROBECK: Why was the one provision deleted by the Senate?

407 MR. MANGIS: Explains Sen. Brady Adams runs a savings and loan. He felt

we were moving too far the other direction. In past years the department originated its own loans. After the department restructured and came out with the new loan program, the department went to the private sector to ask

them to originate the loans, we tried to get ourselves into a position of not being unique. Most of the lenders are looking at 97 percent loan to value at the present time.

439 CHAIR STROBECK: Closes the public hearing on SB 109 A and opens the work session on SB 109 A.

446 MOTION: REP. JOHNSTON moves that SB 109 A be sent to the Full Committee with a DO PASS RECOMMENDATION.

449 VOTE: In a roll call vote, all members present vote AYE. REP. WYLIE IS EXCUSED.

TAPE 27, B

018 CHAIR STROBECK: Opens the public hearing on SB 306.

SB 306 - PUBLIC HEARING

Witnesses: Robert King, Board on Public Safety Standards and Training

020 MR. MOORE: Explains the provisions of the bill. The Senate Staff Measure Summary and Legislative Fiscal and Revenue statements are hereby made a part of these minutes (EXHIBIT I).

036 ROBERT KING, Board on Public Safety Standards and Training: Offers to answer questions. The board is not opposed to SB 306. It is consistent with the Board's policy in the past to train and certify those individuals who are performing services and holding themselves out to the public to perform those services. This is an effort to keep them trained and certified and to make their services professional.

044 CHAIR STROBECK: Is this bill consistent with the bill that the committee previously dealt with regarding Black Butte and Sun River?

MR. KING: I am not sure why this bill is necessary. The Sun River police came in last time with specific authority to be trained and certified. There apparently was a concern. They removed the "enhanced" to allow them to get out from under control of the sheriff. I have no personal knowledge

of the advantage on the issue. We do train and certify the Sun River police officers.

054 REP. JOHNSTON: Under current statute, wouldn't law enforcement services

be provided? My understanding is that in an unincorporated area or in an incorporated area in this state there is a law enforcement agency responsible for service to that area. If an area thinks it is being under served, it can contract with the sheriff for additional services. That is where the word "enhanced" comes from. In this bill we are removing "enhanced."

068 MR. KING: I don't understand why it is necessary. I will ask the question but do have the answer: where other private entities might want to

create a police department, I don't know where it might go.

074 REP. STARR: The Black Butte police force has never had a contract with

the sheriff's department and the sheriff's department doesn't want to be responsible for them. This looks like it gives them a way to operate without that responsibility. Is that what we are talking about?

083 MR. KING: I believe that would be true. I don't know if the sheriff doesn't want to deal with them or they don't want to deal with the sheriff.

I don't know if it makes a difference or not.

089 CHAIR STROBECK: Closes the public hearing on SB 306 and advises the committee he would recommend that SB 306 be allowed to go to the Full Committee but not with a particular recommendation until Sen. Bryant can be more involved in letting the committee know what the bill is about.

108 CHAIR STROBECK: Declares the meeting adjourned at 2:21 p.m.

Submitted by,

Reviewed by,

Annetta Mullins
Committee Assistant

Gregory G. Moore
Committee Counsel

EXHIBIT SUMMARY

- A - HB 2764, letter from Jon Yunker, Rep. Strobeck, 1 p
- B - HB 3389, HB 3389-8 proposed amendments, Taxpayers United, 2 pp
- C - HB 3389, prepared statement, Consulting Engineers of Oregon, 3 pp
- D - HB 2923, HB 2923-99 proposed amendments, staff, 3 pp
- E - HB 2293, memo from Gail Ryder, 1 p
- F - HB 3447, Preliminary Staff Measure Summary, staff, 1 p
- G - SB 109, Senate Staff measure Summary and Legislative Fiscal and Revenue statements, staff, 3 pp
- H - SB 109, prepared statement, Jon Mangis, 3 pp
- I - SB 306, Senate Staff Measure Summary and Legislative Fiscal and Revenue statements, staff, 3 pp