

SENATE COMMITTEE ON
RULES AND ELECTIONS

Hearing Room
8:00 P.M. Tapes 87 - 88

MEMBERS PRESENT: Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair

MEMBERS EXCUSED: Sen. Brady Adams
Sen. Shirley Gold
Sen. Dick Springer

STAFF PRESENT: Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD: SB 1152: Public Hearing
HB 3278: Public Hearing
HB 2861: Public Hearing
HB 3347: Public Hearing
HB 3448: Public Hearing
HB 3387: 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 , A

003 CHAIR MILLER: Calls meeting to order at 8:00 a.m.

HB 2861 - Public Hearing (EXHIBITS A, B)

Witnesses: Rep. John Schoon, House District 34
Rep. Jane Lokan, House District 25
Manny Martinez
Phil Keisling, Secretary of State

006 REP. SCHOON: This is to help the legislature know what is going on in state government by enabling the Secretary of State to do performance and program audits. I have no comments on the proposed amendments (EXHIBIT C, D).

- The House just passed SB 400, which allows the use of private auditors. The Dept. of Administrative Services has expressed concern that we would be using auditors who had never managed anything by using only the Secretary of State's auditors.

043 REP. JANE LOKAN: A strong performance auditing program of government services is essential to providing cost effective services, and it would be beneficial to use the private sector in these audits. The Secretary of State's office is staffed inadequately to do performance audits.

074 CHAIR MILLER: Notes that it is questionable whether the Secretary of State has the ability to do performance audits.

080 MANNY MARTINEZ: Testifies in favor of the -3 amendments (EXHIBIT E).

114 PHIL KEISLING: The amendments do two things. For audits that fall outside of our constitutional authority - performance and program audits referenced in section 2 - only private auditors could be used. It also changes the assessment system. I don't see how this would change the auditing work that we do. Changing the bill system won't change the way we

do audits. It gives less certainty to state agencies as to what their costs will be. The current billing system recovers the cost of the audit from the agency.

HB 3347 - Public Hearing (EXHIBITS F, G, H)

Witnesses: Rep. Jane Lokan, House District 25

234 REP. JANE LOKAN: The senior tax deferral program has been in place in 1963. Over the years the income cap has become too limited, and the interest rate of six percent has impacted equity quickly.

- The bill raises the income cap from \$19,500 to \$24,500. About twelve thousand seniors use the program. It is self-sustaining.

299 CHAIR MILLER: If this program is expanded, who pays the difference?

300 LOKAN: The state pays the property tax until the home is sold, there is a lien on the home, so the state is reimbursed at that time.

314 PHILLIPS: Can you explain the long term impact of changing the 6% to 3%?

318 LOKAN: Over a ten year period there would be a \$3,000 saving, based on certain assumptions. All of this was considered in the impact statement.

358 PHILIPS: Why change the rate from 6% to 3% if the value of the house continues to grow? Shouldn't the rate be connected to the marketplace?

365 LOKAN: Expenses for living in the home are increasing, while earnings are decreasing. The six percent figure impacts equity quickly.

SB 1152 - Public Hearing (EXHIBITS I, J)

Witnesses: Sen. Bill Kennemer, Senate District 12
Sue McCracken, Legislative Ass't., Sen. Breckke

410 SEN. BILL KENNEMER: This clarifies the status of park structures, which are treated by the law as a recreational vehicle, and may not be aware of their lack of tenant status. Lynn Partin, the mobile home ombudsman has assisted in the bill drafting.

462 SUE MCCRACKEN: This began as a problem in a particular park on the coast, but looked to be a growing problem that needed attention.

TAPE 88, SIDE A

HB 3278 - Public Hearing (EXHIBITS J, K, L)

Witnesses: Julie Brandis, Associated Oregon Industries
Bill Brooks, Dept. of Consumer & Business Services
Pete Shepherd, Dept. of Justice

045 JULIE BRANDIS: Testifies in favor of HB 3278 (EXHIBIT N).

060 BILL BROOKS: The responsibility for regulating extended service contracts will be with the Department of Consumer & Business Services. We worked with AOI on the bill.

- The current bill may not correctly assign the risk of loss between the parties, and we propose a provision akin to the insurance code that the person who solicits the application be deemed the agent of the obligor.

- The -10 (EXHIBIT O) amendments may address this concern.

093 PETE SHEPHERD: I am the attorney-in-charge of the Financial Fraud Section, and there is a problem, and the bill and the -10 amendments do address the problem.

- A problem for consumers in extended contract sales is that when the consumers call on the obligor, the obligor may not be there anymore.

- This bill solves that problem. It indicates that a person may not be an obligor unless they have substantial assets or obligors can qualify to sell such contracts if they have secured a reimbursement insurance policy, so if the obligor does go out of business, the consumer has a deep pocket to look to.

- The -10 amendments allow a consumer to look to the retailer for redress if the obligor is no longer available.

129 PHILLIPS: Have Ray Gribbling's concerns been addressed?

132 BRANDIS: He no longer has concerns.

- We encourage the adoption of the -10 amendments as well as the -8 amendments (EXHIBIT P).

HB 3348 - Public Hearing (EXHIBITS Q, R, S)

Witnesses: Denise McPhail, Portland General Electric
John Charles, Oregon Environmental Council
Carolyn Young, Dept. of Environmental Quality
Jim Craven, Oregon Council of the American Electronic Assn.
John Wildegren
Rep. Leslie Lewis, House District 29
Gary Bauer, Oregon Independent Telephone Assn.

154 DENISE MCPHAIL: The bill's aim is to maintain Portland's air quality maintenance plan.

- The House amended the bill in section 4 to direct the DEQ and the PUC to investigate the subsidization zero emission lawn mower and barbecue equipment. We don't support a tax on our customers to get rid of gas lawn mowers and barbecues.

- At a minimum, we would like to see the word, "subsidy" removed, and at a maximum, we'd like to the PUC reference eliminated in section 4.

193 JOHN CHARLES: HB 3348 continues a program mandated by the legislature last session, a major business tax that was tried in California and failed.

The ECO program can't make a difference in air quality because work commute trips account for only 25% of trips (EXHIBIT T). It is not a fair tax. The DEQ will be forced to implement the program unless the program is

removed from the bill. The other programs in the bill are voluntary and probably don't do anything for air quality.

- The policy choice is going forward with the bill, have the hidden business tax, force thousands of employers to become commute police for no clean air benefits, or do you get rid of it and enact an incentive program.

- If you want to make a difference in clean air, you have to shift toward market based approaches and away from command and control.

283 SEN. PHILLIPS: Is the language in the bill regarding boundaries the same as an earlier bill that passed both houses and is on the governor's desk awaiting his signature?

280 CAROLYN YOUNG: Yes it is.

297 SEN. PHILLIPS: The only part of the bill that seems sound is the education portion. The provision regarding lawn mowers and barbecues is laudable but unworkable - would you agree with that?

302 YOUNG: The PUC is willing to explore the issue, but they don't hold out much hope for a subsidy program that would be enforceable in order to get the credit.

311 SEN. PHILLIPS: Do you have any problem if we say that the DEQ shall not adopt parking ratio program?

312 YOUNG: We've worked for two years with an advisory committee on the parking ratio program, we have not been able to reach consensus, and have no objection to the program being voluntary, as stated in the bill.

321 PHILLIPS: What are your thoughts on the employer commute option?

323 YOUNG: Such a program can be workable, but we'd like to start out with a program that only affects large employers and has a target rate of a ten percent reduction in trips. That is the kind of program we would strive to put together through rules.

- The bill provides for a cap that would include smaller employers and a larger reduction in trips, but that would not be our initial goal. We would focus more on getting credits through education.

388 PHILLIPS: Maybe a pilot program would be a better way; I don't know if 20 gets 90% of the businesses or 40% of the businesses.

396 YOUNG: We have looked into that, but I can't say off the top of my head.

- We are required under the federal Clean Air Act to submit a ten-year maintenance plan. We believe we need this component in order to reach that requirement.

422 PHILLIPS: If an employer has 50 employees, but they don't all work in the Portland air shed, are they counted?

430 YOUNG: The DEQ expert isn't here, and that would be specified by rule,

which hasn't been written.

438 PHILLIPS: You wouldn't object to deleting the lawn mower program and the restrictions on the boundary.

453 YOUNG: That is correct.

TAPE 87, SIDE B

027 JIM CRAVEN: We've been involved in this issue since 1991. The goal has been to develop a number of strategies that add up to the kind of numbers Oregon can send to the EPA for approval.

- In order to expand some industries, you already have to do offsets: close dry cleaners or other businesses in order to expand yours. That would be lifted if the maintenance plan were approved.

- The set of strategies before you are really a number of choices that you have. The goal is clean air, how we get there is our choice.

- On page 2, subsection (5), lines 26-31 is an amendment that was brought forward by AEA on the House side. It says that EQC cannot affect existing industry permits as a strategy, and it is important it remain in the bill.

071 JOHN WILDERGREN?: I have been a member of the parking ratio advisory committee.

- There is no way to make the parking ratio program workable.
- The same kinds of problems exist in the ECO program.
- The workability and success of a required rule should be tested and proven. How will we know whether it really works?
- Before a rule is implemented, it should be reviewed by the legislature to

ensure that the cost/benefits analysis has been done and is satisfactory.

- An emissions fee would be supported by the business community; this should be studied over the next two years. It puts responsibility on the person making the decision on the commuter and allows the marketplace to determine who pays the costs.
- The ECO rule should be eliminated, or at least, scrutinized.

135 PHILLIPS: Suggests amending the bill such that success of the program must be measured and begin it as a pilot program.

165 REP. LESLIE LEWIS: There was a house special task force to look at vehicle emissions due to new EPA standards.

- The task force heard a number of strategies, the expanded boundary was one that was not popular. Only 30% of those from the expanded areas commute to Portland and would not significantly affect Portland's air shed while requiring 100% to be tested.

- Other unpopular strategies included the parking ratio strategy and the employer commute option, and we had to choose one, so we chose the ECO.

- The result of the task force is HB 3448.

- I would support amending the bill such that the success of the strategies are measured.

245 GARY BAUER: We share the concerns of Denise McPhail of regulated utilities subsidizing the lawn mower and barbecue problem.

HB 3387 - Public Hearing (EXHIBITS U, V, W, X)

Witnesses: Colleen Sealock, Elections Division, Secretary of State's Office

Mike Greenfield, Secretary of State's Office

266 COLLEEN SEALOCK: This bill pertains to the "Little Oregon Hatch Act."
It does three primary things:

- Requires that any optional material sent out by a public employer must be reviewed by the highest ranking public employee or the public official, who then must sign a statement that it does not violate the advocacy portion of the law.

- It closes a loophole regarding the use of public property for advocacy purposes. Oregon law currently limits public employees on their job on their work time from supporting or opposing measures, but it does not prohibit the use of public property.

- It raises the penalty for advocacy pieces to an automatic \$2500 fine to the person, not the government. It also adds a \$500 fine for when the statement is not submitted for the optional material sent.

325 PHILLIPS: What did the original bill do?

330 SEALOCK: The original bill was more far reaching, and was similar to the amendments that will be proposed. It required a 60-day blackout period prior to an election that a governmental body could not do a mass distribution of any document.

350 MIKE GREENFIELD: In response to a question from Sen. Phillips, he states that rules regarding legislative newsletters are internal House and Senate rules.

364 PHILLIPS: Supports black out period; it would prevent schools from mailing out their literature before a bond election, an implied advocacy period.

387 SEALOCK: That is a problem, and our office receives complaints. In a regular distribution, at what point does the school stop communicating with parents? In determining whether information provides an advocacy position, we look to see if both sides are presented and if the presentation was neutral. The -A8 amendments would interfere with regular mailings near an election date.

TAPE 88, SIDE B

043 SEALOCK: If the committee wishes to consider amendments are returning the bill to its original version, we would like to be able to comment on those proposals.

085 PHILLIPS: Requests a synopsis on the original bill.

095 CHAIR MILLER: Questions whether the language was unduly restrictive regarding what can be mailed out. Also, is there any prohibition on public employees to advocate an issue on their own private time?

100 SEALOCK: No. They may do anything they want as a private citizen. The original bill may have interfered with this.

111 CHAIR MILLER: The current law is blatantly violated.

150 CHAIR MILLER: Adjourns the meeting at 9:40 a.m.

Submitted by,

Committee Assistant

EXHIBIT SUMMARY

- A - staff measure summary, HB 2861, staff, 1 pg.
- B - revenue/fiscal impact statements, HB 2861, staff, 1 pg.
- C - proposed amendments, HB 2861, staff, 2 pgs.
- D - hand-engrossed bill, HB 2861, staff, 4 pgs.
- E - testimony, HB 2861, Martinez, 2 pgs.
- F - staff measure summary, HB 3347, staff, 1 pg.
- G - fiscal impact statement, HB 3347, staff, 2 pgs.
- H - revenue impact statement, HB 3347, staff, 1 pg.
- I - staff measure summary, SB 1152, staff, 1 pg.
- J - revenue/fiscal impact statements, SB 1152, staff, 1 pg.
- K - staff measure summary, HB 3278, staff, 1 pg.
- L - fiscal impact statement, HB 3278, staff, 1 pg.
- M - revenue impact statement, HB 3278, staff, 1 pg.
- N - testimony, HB 3278, Brandis, 1 pg.
- O - proposed amendments, HB 3278, staff, 1 pg.
- P - proposed amendments, HB 3278, staff, 1 pg.
- Q - staff measure summary, HB 3448, staff, 1 pg.
- R - fiscal impact statement, HB 3448, staff, 1 pg.
- S - revenue impact statement, HB 3448, staff, 1 pg.
- T - testimony, HB 3448, Charles, 11 pgs.
- U - staff measure summary, HB 3387, staff, 1 pg.
- V - fiscal impact statement, HB 3387, staff, 1 pg.
- W - revenue impact statement, HB 3387, staff, 1 pg.
- X - hand-engrossed bill, HB 3387, staff, 9 pgs.

SENATE COMMITTEE ON
RULES AND ELECTIONS

Hearing Room 343
Tapes - 90

MEMBERS PRESENT:

Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair
Sen. Brady Adams
Sen. Dick Springer

MEMBER EXCUSED:

Sen. Shirley Gold

STAFF PRESENT:

Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD:

HB 2001: Public Hearing
HB 3278: Work Session
HB 2861: Public Hearing and Work Session
HB 3387: Public Hearing
HB 3347: Work Session
HB 2701: Public Hearing and Work Session

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

TAPE , A

003 CHAIR MILLER: Calls the meeting to order at 2:50 p.m.

005 Opens Work Session on HB 3278.

007 MOTION: SEN. PHILLIPS: MOVES THE --8 AND -10 AMENDMENTS TO HB 3278.

VOTE: CHAIR MILLER: HEARING NO OBJECTION, THE AMENDMENTS ARE ADOPTED.
SEN. GOLD AND SEN. SPRINGER ARE EXCUSED.

010 MOTION: SEN. PHILLIPS MOVES HB 3278, AS AMENDED, TO THE FLOOR WITH A
DO PASS RECOMMENDATION.

VOTE: CHAIR MILLER: ALL MEMBERS PRESENT VOTE AYE. SEN. GOLD AND SEN.
SPRINGER ARE EXCUSED.

014 CHAIR MILLER: Closes Work Session on HB 3278.

015 Opens Public Hearing on HB 3387

Witnesses:

Oregon Taxpayers United: Bill Sizemore, Executive Director

017 BILL SIZEMORE, EXECUTIVE DIRECTOR, OREGON TAXPAYERS UNITED, Testifies,
proposing amendments to HB 3387-A, the -A8 amendments.

070 CHAIR MILLER: Closes Public Hearing on HB 3387.

075 Opens Work Session on HB 3347.

077 MOTION: SEN. PHILLIPS: PROPOSES A CONCEPTUAL AMENDMENT: TO LEAVE IT
AT 6% (THE STATUS QUO).

VOTE: CHAIR MILLER: HEARING NO OBJECTION, THE AMENDMENT IS ADOPTED. SEN. GOLD AND SEN. SPRINGER ARE EXCUSED.

080 MOTION: SEN. PHILLIPS: MOVES HB 3347, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: CHAIR MILLER: ALL MEMBERS PRESENT VOTE AYE. SEN. GOLD AND SEN. SPRINGER ARE EXCUSED.

SEN. Phillips will lead discussion on the Floor.

099 CHAIR MILLER: Recesses committee.

100 Reconvenes committee.

Opens Public Hearing on HB 2701.

109 SEN. TIMMS: Proposes amendment to HB 2701.

125 CHAIR MILLER: Closes public hearing on HB 2701.

Opens Work Session on HB 2701.

MOTION: SEN. PHILLIPS MOVES -6 AMENDMENTS TO HB 2701.

VOTE: WITHOUT OBJECTION, CHAIR MILLER DECLARES AMENDMENTS ADOPTED.

140 MOTION: SEN. PHILLIPS MOVES HB 2701, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

143 VOTE: WITHOUT OBJECTION, CHAIR MILLER DECLARES MOTION PASSED. SENATORS ADAMS AND GOLD ARE EXCUSED.

145 CHAIR MILLER: Closes work session on HB 2701.

Sen. Timms will carry the bill.

139 Opens Public Hearing on HB 3387.

Witnesses:

Sarah Hackett, League of Oregon Cities
Hasina Cassim, Special Districts
Tom O'Connor, Oregon Municipal Electricians

140 SARAH HACKETT, LEAGUE OF OREGON CITIES: Testifies on the -HB 3387-A8 amendments from written testimony (EXHIBIT A)

201 HASINA CASSIM, SPECIAL DISTRICTS ASSOCIATION: Testifies in opposition to HB 3387-A8 amendments.

States concern with page three, lines 6 and 15.

230 TOM O'CONNOR, OREGON MUNICIPAL ELECTRIC UTILITIES: Testifies on HB 3387, presenting conceptual amendment (EXHIBIT B).

Expresses concerns with HB 3387-A8 amendments:

285 CHAIR MILLER: Asks measure sponsors to take the next 16 hours or less and work with those concerned about over-broad language and other problems and return to the committee tomorrow with a resolution.

318 Closes Public Hearing on HB 3387.

348 Opens Work Session on HB 2861.

Witnesses:

Phil Keisling, Secretary of State

350 CHAIR MILLER: Proposes deletion of lines 1 through-8 of -A3 amendments.

Propose moving remainder of the -A3 amendments.

Otherwise, the Secretary of State would be almost completely prohibited from conducting audits. Refers to SB 400, which has been passed by the Legislature and awaits the Governor's signature.

414 SEN. ADAMS: Asks about the fiscal impact of the amendments.

416 CHAIR MILLER: Does not have specific figures. Does not believe the budget would be negatively impacted.

TAPE 90, A

002 SEN. SPRINGER: Notes HB 2861-A2 amendments (EXHIBIT C).

004 MOTION: CHAIR MILLER MOVES HB 2861-A3 AMENDMENTS AS AMENDED.

VOTE: WITHOUT OBJECTION, CHAIR MILLER DECLARES HB 2861-A3 AMENDMENTS ADOPTED.

005 SEN. SPRINGER: HB 2861-A2 amendments are intended to clarify and standardize some informal practices and provide clear access by citizens and elected officials to state audit services.

010 PHIL KEISLING, SECRETARY OF STATE: -A2 amendments were drafted for the consideration of the committee if the committee is interested in making a statement about encouraging more performance and program auditing.

Explains current auditing practices and changes proposed in -A2 amendments.

005 CHAIR MILLER: Suggests that the -A2 amendments be introduced as a separate measure.

048 SEN. PHILLIPS: Indicates that he has questions on the mechanics of the amendments.

055 KEISLING: The proposal is another avenue for citizen access.

085 SEN. PHILLIPS: Asks questions about the provisions of HB 2861.

095 KEISLING: Responds with his understanding of the bill and reviews the auditing work done by his office.

Would not support the measure if it prohibited the Secretary of State from conducting audits.

142 SEN. PHILLIPS: Asks Keisling if he would support the measure if it allowed him to use either private auditors or internal resources.

145 KEISLING: Yes. Quality and cost effectiveness are the criteria to consider. Changes in budgets would be needed.

176 SEN. ADAMS: Is comfortable with moving ahead with the measure.

188 MOTION: CHAIR MILLER MOVES HB 2861, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: WITHOUT OBJECTION, CHAIR MILLER DECLARES MOTION PASSED. SEN. GOLD IS EXCUSED.

190 CHAIR MILLER: Closes Work Session on HB 2861.

Opens Public Hearing on HB 2001

Witnesses:

Randy Hilderbrand, Speaker's Office
Al Elkins, Car & Truck Rental Leasing Association
Mark Tobiason, Enterprise Rent-A-Car
John Powell, North Pacific Insurance
Paul Cosgrove, Nationwide Insurance
Kelly Taylor, ODOT

190 RANDY HILDERBRAND, OFFICE OF SPEAKER OF THE HOUSE, BEV CLARNO: Reviews provisions of HB 2001 and expresses support of the Speaker for the bill.

219 AL ELKINS, CAR AND TRUCK RENTAL LEASING ASSOCIATION: Introduces Mark Tobiason, City Retail Manager for Enterprise Rent-A-Car of Beaverton.

Echoes Hilderbrand's sentiments and testifies in support of HB 2001.

228 MARK TOBIASON: Reports on his meeting with Department of Administrative Services (DAS) Fleet Department and speaks of possible savings.

230 SEN. PHILLIPS: Asks if DAS expressed interest in contracting out.

243 TOBIASON: Our mission was fact finding. Did not discuss merits of contracting out.

245 SEN. PHILLIPS: Asks if analysis includes Salem.

250 HILDERBRAND: The bill relates only to the Portland area, and excludes Salem.

268 JOHN POWELL, NORTH PACIFIC INSURANCE COMPANY: Reviews reason for and provisions of HB 2001-A6 amendment (EXHIBIT D).

315 PAUL COSGROVE, NATIONWIDE INSURANCE CO: Agrees with Mr. Powell.

320 KELLY TAYLOR, OREGON DEPARTMENT OF TRANSPORTATION: Have not had opportunity to discuss measure with all parties involved at ODOT. Would not want to delay the measure if it is not necessary.

385 CHAIR MILLER: Asks Ms. Taylor to get the necessary information before the next committee meeting.

399 Closes Public Hearing on HB 2001.

Adjourns the meeting at 4:20 p.m.

Transcribed by,

Pat Zwick

EXHIBIT LOG

A	HB 3387 S. Hackett Testimony	3 pages
B	HB 3387 T. O'Connor Proposed Amendment	1 page
C	HB 2861 HB 2861-A2 Amendment	3 pages
D	HB 2001 HB 2001-A6 Amendment	1 page