

SENATE COMMITTEE ON
TRANSPORTATION

Hearing Room
Tapes - 16

SENATE COMMITTEE ON TRANSPORTATION MEMBERS PRESENT:

Sen. Ken Baker, Chair
Sen. Mae Yih, Vice-Chair
Sen. John Lim
Sen. Dick Springer

SENATE MEMBER EXCUSED:

Sen. Marylin Shannon

HOUSE GENERAL GOVERNMENT AND REGULATORY REFORM SUBCOMMITTEE ON
TRANSPORTATION MEMBERS PRESENT:

Rep. Cedric Hayden, Chair
Rep. Jerry Grisham
Rep. Bill Markham
Rep. Ken Strobeck

HOUSE MEMBERS EXCUSED:

Rep. Lonnie Roberts
Rep. Mike Lehman

STAFF PRESENT:

Janet Adkins, Senate Committee Administrator
Anne Tweedt, House Committee Counsel
Gina Rumbaugh, Senate Committee Assistant

MEASURES HEARD:

Introduction of LC 1863 and LC 2589
SB 318 Public Hearing
SB 126 Public Hearing and Work Session

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.

Joint meeting of the Senate Committee on Transportation and the House General Government and Regulatory Reform Subcommittee on Transportation.

TAPE , SIDE A

005 CHAIR BAKER: Calls the meeting to order (1:21PM).

WORK SESSION: INTRODUCTION OF LC 1863 AND LC 2589

010 MOTION: CHAIR BAKER MOVES THE COMMITTEE INTRODUCE LC 1863

VOTE: FOUR MEMBERS PRESENT, HEARING NO OBJECTIONS THE MOTION CARRIES; SEN.

SHANNON IS EXCUSED

018 MOTION: CHAIR BAKER MOVES THE COMMITTEE INTRODUCE LC 2589

VOTE: FOUR MEMBERS PRESENT, HEARING NO OBJECTIONS THE MOTION CARRIES; SEN.

SHANNON IS EXCUSED

PUBLIC HEARING ON SB 318

Witnesses: Joe French, Oregon Forest Products Transportation Association
Leon Fischer, President, Siletz Trucking Company
Barry Mammano, Oregon Forest Products Transportation Association
Fred Nusbaum, President, Association of Oregon Rail and Transit Advocates
Dell Isham, Raz Transportation Company
Steve Wimer, Wimer Logging Company

025 ADMINISTRATOR ADKINS: Explanation of SB 318.

050 JOE FRENCH, OREGON FOREST PRODUCTS TRANSPORTATION ASSOCIATION: Submits written testimony [EXHIBIT A] and references amendment 318-1 [EXHIBIT B].

073 CHAIR BAKER: Federal preemption has prohibited economic regulation.

078 FRENCH: Believe it relates more to local statewide regulation than to federal.

080 CHAIR BAKER: Even locally, we cannot economically regulate those issues.

082 FRENCH: Then they should have deregulated the contract provision, too.

090 LEON FISCHER, PRESIDENT, SILETZ TRUCKING COMPANY: Supports SB 318-1; allows his company to be better able to determine a fair and equitable price.

120 CHAIR BAKER: What if we were to repeal the whole section, ORS 767.510?

125 FRENCH: I think there'd be a split on it.

132 CHAIR BAKER: Propose we continue the hearing and delay a work session to give your association and others time to take another look at this issue

in light of federal preemption.

140 FRENCH: References Exhibit A, Item 2, Filing Fee; amendment 318-2 [EXHIBIT C].

175 -Item 3, Business Plan amendment

220 -Response to Chair Baker's repeated concern about economic regulation

230 -Item 4, Safety Consortium amendment

260 -Item 5, Peeler Cores amendment

273 SEN. LIM: The \$1,000 fee seems to be excessive.

280 FRENCH: The fee is justified in covering costs of vehicle inspections, safety promotion, inspector travel, and schooling for new applicants.

293 SEN. LIM: Are you representing the whole trucking industry?

310 FRENCH: I represent the Oregon Forest Products Transportation Association which has about 500 statewide members; the board has recommended the new application fee should be \$1,000.

315 BARRY MAMMANO, OREGON FOREST PRODUCTS TRANSPORTATION ASSOCIATION:
References Exhibit A, Item 3; according to ORS 767.020, the PUC's policy is

to foster sound economic business conditions; if you're serious about trucking, you're going to have a strong plan, just like with any other business.

340 CHAIR BAKER: How will the PUC determine whether or not they'll accept a business plan?

345 MAMMANO: The PUC had that in effect before deregulation.

348 FRENCH: They should hold public hearings to get input; all we're asking is that the party be aware of what he's getting into, and can explain it in a plan.

375 FRED NUSSBAUM, PRESIDENT, ASSOCIATION OF OREGON RAIL AND TRANSIT ADVOCATES: Would like deregulation of the intrastate passenger service for

regular routed buses; suggest amendment added to ORS 767.135, SB 318, page 9, section 12, subsection 4, that if a carrier for-hire proposes a service and if that is protested, then the provision should be made that, "if the service is not charter service, that the burden ought to be on the protester to prove that the public necessity and convenience would not be served by additional service."

TAPE 16, SIDE A

010 DELL ISHAM, RAZ TRANSPORTATION COMPANY: Opposes amendment suggested by Mr. NusSBaum; explains why Congress specifically did not include deregulation of bus transportation and the hauling of household goods.

050 CHAIR BAKER: Asks PUC staff to respond to Sen. Lim's question about the application fee.

060 BOB RUSSELL, ASSISTANT COMMISSIONER, PUC TRANSPORTATION PROGRAM: The \$300 application fee was calculated on incurred costs including processing, insurance filing, highway use tax bond filing, safety plan review, and equipment inspection.

070 SEN. LIM: Requests a breakdown be provided.

075 CHAIR BAKER: Has the PUC discussed the requirement of a business plan?

080 RUSSELL: Yes. The Attorney General's office advice was that we would exceed the scope of federal preemption and be in violation if we required a business plan.

090 CHAIR BAKER: Does the PUC have a position regarding the 5-day grace period and if the statute should be repealed?

095 RUSSELL: Attorney General's office believed it would be permitted under preemption.

112 CHAIR BAKER: Has the PUC discussed the idea of an applicant participating in a motor carrier safety consortium?

114 RUSSELL: Yes, we believe the PUC already is the safety consortium.

145 CHAIR BAKER: Will come back for a work session on SB 318.

160 REP. STROBECK: I'm most interested in the variance of the \$300 and \$1,000 fee estimates.

170 REP. MARKHAM: Do you want to further discuss the 5-day grace period?

172 CHAIR BAKER: It would be my preference to eliminate the requirement.

190 STEVE WIMER, WIMER LOGGING COMPANY: Supports amendment 318-1; makes it easier to set a fair and equitable rate.

230 REP. MARKHAM: What would you think about throwing the statute out?

235 WIMER: As far as the time element, that would be fine; we've gained some elements in the bill that are in our favor.

295 ADMINISTRATOR ADKINS: Notes letter dated 2/13/95 from the PUC included in members' materials; contains the options for staffing that Rep. Hayden requested.

305 CHAIR BAKER: I'm going to have Counsel draft amendments for ORS 767.510 in two forms; one will allow the 5-day grace period extension, and one will repeal that section; will also have Counsel draft an amendment for peeler cores to be added.

PUBLIC HEARING ON SB 126

Witnesses: Bob Russell, Assistant Commissioner, PUC Transportation Program
Everett Cutter, Manager, Oregon Railroad Association
Fred Nusbaum, President, Association of Oregon Rail and Transit Advocates

330 ADMINISTRATOR ADKINS: Explanation of SB 126, and 126-1 amendments [EXHIBIT D].

360 BOB RUSSELL, ASSISTANT COMMISSIONER, PUC TRANSPORTATION PROGRAM: Submits written testimony [EXHIBIT E], which addresses bill as amended, and explains purpose of SB 126.

TAPE 15, SIDE B

005 EVERETT CUTTER, MANAGER, OREGON RAILROAD ASSOCIATION: Supports SB 126 and amendments; submits and summarizes written testimony [EXHIBIT F].

040 FRED NUSBAUM, PRESIDENT, ASSOCIATION OF OREGON RAIL AND TRANSIT ADVOCATES: Supports SB 126; there is a clear public interest in insuring adequate protection at all train crossings.

060 CHAIR HAYDEN: What happens with the private crossings in the future?

070 RUSSELL: It doesn't affect the statutes regarding private crossings in any way; that continues to be an arrangement between the railroad and land owner.

075 SEN. YIH: Who is responsible for the maintenance and safety of the crossings?

078 RUSSELL: PUC is responsible for safety, the railroads are responsible for the maintenance on their right-of-way, and the Public Road Authority is responsible for the roads.

083 SEN. YIH: If an accident occurs on the crossing, who is responsible?

088 RUSSELL: Usually the railroad, the Public Road Authority, and the PUC are all sued.

090 SEN. YIH: What does it cost the state if this bill passes?

092 RUSSELL: There is no fiscal impact as a result of this bill.

094 SEN. YIH: Is there a state matching fund we have to put in for the safety signals?

096 RUSSELL: We receive approximately \$2 million/year from the federal government, with a match requirement of 10% state funds.

110 SEN. YIH: What if there were more the \$2 million from the federal government.

112 RUSSELL: There hasn't been. If that were to increase, we'd come back to you and ask for an increase in the grade crossing protection account to increase the state funds to use as a match to obtain the federal funds.

118 SEN. YIH: Is there any match requirement for local governments?

120 RUSSELL: No.

125 SEN. LIM: What is the clear criteria for when a crossing becomes public?

130 RUSSELL: In our terms, when someone applies to make it public. With this bill, we want to go back and fix those hazardous ones that have developed over the years unintentionally, and set up a mechanism so that we are notified when people are developing property when the only access is a railroad crossing.

145 SEN. LIM: What if the owner of private property refuses a public railroad crossing?

147 RUSSELL: If they refuse to pay the local jurisdiction the cost of the crossing, my guess is that the local jurisdiction would not approve development of that property.

155 REP. GRISHAM: Do we know the approximate cost per crossing?

157 RUSSELL: They range tremendously depending on the kinds of things that are installed.

162 REP. GRISHAM: How long does it take to stop a train traveling 60 miles per hour?

164 CUTTER: It would take over a mile to stop a typical loaded freight train.

166 REP. GRISHAM: Expresses concern regarding unauthorized crossings near property between Canby and Oregon City. Would you be able to consolidate down to one crossing?

182 RUSSELL: It is a priority to reduce the number of crossings.

185 REP. GRISHAM: If it takes over a mile to stop that train, I'm worried about the perceived safety factor to children that might play along there.

195 CHAIR HAYDEN: What would it cost for a modest 14 foot underpass for a single vehicle?

198 RUSSELL: Cannot make an estimate, but it is extremely expensive.

WORK SESSION ON SB 126

210 ADMINISTRATOR ADKINS: Explanation of 126-1 amendments.

235 MOTION: SEN. YIH MOVES TO ADOPT THE SB 126-1 AMENDMENTS DATED 2/6/95

VOTE: FOUR MEMBERS PRESENT, HEARING NO OBJECTIONS THE AMENDMENTS ARE ADOPTED; SEN. SHANNON IS EXCUSED

250 SEN. YIH: Expresses concern that the bill be referred to Ways and Means.

260 RUSSELL: We will use existing state funds; are not asking for an increase.

285 MOTION: SEN. YIH MOVES THAT SB 126, AS AMENDED, BE SENT TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: IN A ROLL CALL VOTE, FOUR MEMBERS PRESENT VOTE AYE;
SEN. SHANNON IS EXCUSED

Sen. Yih will lead discussion on the Floor.

295 CHAIR BAKER: Adjourns the meeting (2:37PM).

The Senate Committee on Transportation stayed in the hearing room as the House General Government and Regulatory Reform Subcommittee on Transportation heard testimony on HB 2229, HB 2361, and HB 2481. Refer to minutes and audio tape of the House for further information.

Submitted by, Reviewed by,

Gina Rumbaugh Janet Adkins
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

- A - Testimony on SB 318 -- Joe French -- 7 pages
- B - SB 318-1 Amendments -- Staff -- 1 page
- C - SB 318-2 Amendments -- Staff -- 1 page
- D - SB 126-1 Amendments -- Staff -- 1 page
- E - Testimony on SB 126 -- Bob Russell -- 4 pages
- F - Testimony on SB 126 -- Everett Cutter -- 1 page