

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Transportation

May 19, 1993           Hearing Room 357 9:30 a.m.   Tapes 59 - 61

MEMBERS PRESENT:   Rep. Chuck Norris, Chair Rep. Ken Baker Rep. Cedric Hayden, ex-officio Rep. Carl Hosticka Rep. Lonnie Roberts

STAFF PRESENT:           Janet Adkins, Committee Administrator Priscilla Boyle, Committee Assistant

MEASURES CONSIDERED:                    HB 3068 HB 2333 HB 3155 HB 3181 HB 3229

WITNESSES:   Jim Noteboom, Tribal Attorney, Confederated Tribes of Warm Springs Maur Horton, Oregon Department of Transportation (ODOT) Jim Russell, Assistant Attorney General, Department of Justice Gerald Phelan, Gerald E. Phelan Inc. George Pugh, Grass Seed Farmer, Shedd Dave Nelson, Oregon Seed Council Steve Johnston, Oregon Department of Transportation (ODOT) Rep. Mike Burton, District 17 Stu Rasmussen, Vice President of Engineering, All

Games Mfg. Jeff Towery, City Manager, City of Cottage Grove Kaye Robinette, City Council Member, City of Eugene Paula Taylor, Lane County Boundary Commission Jim Minard, City of Junction City Ken Martin, Portland Metro Area Local Govt. Boundary

Commission Rep. Sam Dominy, District 44

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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. [--- Unable To Translate Graphic ---]

TAPE 59, SIDE A

006 CHAIR NORRIS: Calls the hearing to order at 9:52 a.m.

PUBLIC HEARING - HB 3068

025 JANET ADKINS, COMMITTEE ADMINISTRATOR: Reviews HB 3068 (EXHIBIT A) and submits (-1) Amendments and Fiscal Impact Statement (EXHIBIT B).

040 JIM NOTEBOOM, TRIBAL ATTORNEY, CONFEDERATED TRIBES OF WARM SPRINGS: Testifies in support of HB 3068.

051 MAUR HORTON, OREGON DEPARTMENT OF TRANSPORTATION (ODOT): Testifies in support of HB 3068 and submits written testimony. (EXHIBIT C)

087 REP. BAKER: Is there an attorney general opinion regarding the legality of what we're proposing?

089 HORTON: We've been working with their office; they have a representative here today that could answer that.

094 REP. BAKER: What's the legality of what we're attempting to do here?

096 JIM RUSSELL, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE: In 1962 a question arose as to whether the Warm Springs Tribe would be entitled to claim a refund of the Motor Vehicle Fuel Tax as to those vehicles operated by the tribe over reservation roads and trails. Our answer was "yes" because the roads are equivalent to private roads for state tax purposes.

112 REP. BAKER: Is that directed just towards the governmental unit of the tribal government?

113 RUSSELL: No. It relates to driving over the tribal roads and trails.

118 CHAIR NORRIS: Is there something of a parallel between this and motor fuel on which a tax is paid, then used in a boat on which people can file for a refund?

121 RUSSELL: Yes, they are the same. They are like the ATV fuels which are refundable.

124 CHAIR NORRIS: This isn't starting a new precedent?

125 RUSSELL: No. It is more a means of dealing with certain record keeping problems that would entitle these people to get refunds to which they're due.

129 REP. HOSTICKA: Would it be conceivable that we might not want to negotiate with them, to take over maintenance of their road system, rather than the other way around?

132 HORTON: The department hasn't set any boundaries to that negotiation in terms of what we might be willing to do. This hasn't been proposed yet.

137 REP. HOSTICKA: If that is even anticipated, does the language of the bill give authority to do that?

140 HORTON: The language allows us to refund taxes on mileage driven off the system. This provision of statute would not address that issue. Although we have negotiated in other areas for maintenance swaps; it's possible we could do it. 153 REP. ROBERTS: Wouldn't this bill have to go to appropriations?

155 CHAIR NORRIS: Revenue. They have asked for it.

157 REP. BAKER: Do I understand correctly that the tribal government makes one request for reimbursement per year, and that we're asking here for individual members of a tribe to make individual applications for reimbursement?

160 HORTON: The arrangement contemplated here is that the department would make an agreement with the tribal government based on a survey that would allow for equitable amount to be distributed among members.

166 NOTEBOOM: The tribes have had in place such an agreement with regard to cigarette taxes in which they apply for a refund based on their enrolled membership.

170 CHAIR NORRIS: Closes public hearing.

WORK SESSION - HB 3068

176 MOTION: REP. ROBERTS MOVES HB 3068 (-1) AMENDMENTS. HEARING NO OBJECTIONS, SO ORDERED.

MOTION: REP. ROBERTS MOVES HB 3068 AS AMENDED TO COMMITTEE ON REVENUE AND SCHOOL FINANCE WITH DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE, HB 3068 AS AMENDED IS REFERRED TO COMMITTEE ON REVENUE AND SCHOOL FINANCE WITH DO PASS RECOMMENDATION, ALL MEMBERS PRESENT VOTING AYE. REP. HAYDEN EXCUSED.

184 CHAIR NORRIS: Closes work session.

PUBLIC HEARING - HB 2333

206 JANET ADKINS: Reviews HB 2333 (see exhibit A) and submits Fiscal Impact Statement. (EXHIBIT D)

223 GERALD PHELAN, GERALD E. PHELAN INC.: Testifies in support of HB 2333.

266 REP. ROBERTS: You wouldn't have a problem with the extra four inches going under the overpasses?

270 PHELAN: No. We have been in business for eight years and pick up citations each year amounting to close to \$2,000 a year. We operate out of Corvallis into Portland via 205, where our compressor readies hay for foreign shipment.

281 REP. ROBERTS: You would be satisfied with a yearly permit for oversize, with the restrictions of routing? Do you have a figure on what it would cost you to get the permits for each truck? 286 PHELAN: Over tonnage permit fees are seven dollars annually.

REP. ROBERTS: This revenue analysis tells me that we're looking at almost \$63,000 in a biennium. Reviews fiscal impact statement.

288 PHELAN: If the permit fees are excessive I'd do as well to pay the over-height citations.

290 REP. ROBERTS: You don't want to be red-tagged at any time or take a chance not meeting your schedule?

PHELAN: It has to be delivered dry, on time.

328 REP. BAKER: You've got thirty trucks, statewide, in this predicament?

331 PHELAN Industry-wide, about thirty to fifty that would apply for a permit.

336 REP. BAKER: I don't see any financial impact, given the number of permits recorded for '93-'95.

340 CHAIR NORRIS: We're going to ask some questions on that.

341 REP. ROBERTS: Are there some agency people here?

344 REP. BAKER: Your straw is baled?

347 PHELAN: Straw is mechanically baled and loaded; very time consuming if we start taking the top tier off. We pay substantial PUC fees, which has bearing on the case.

366 CHAIR NORRIS: What size bales are we talking about?

367 PHELAN: Sixteen by twenty-two by forty-eight inches; three tie bale.

370 CHAIR NORRIS: A standard size, not some huge building size, something you can't buck by hand?

373 PHELAN: Industry has 4 x 3 x 8 foot bales. They're normally stacked three high.

386 CHAIR NORRIS: You're going seven high on your truck beds?

PHELAN: Yes.

387 CHAIR NORRIS: Going six high, you wouldn't have this problem?

PHELAN: It would be one sixth load light, and straw is light to begin with, which would be defeating the purpose by cutting down on the load and hauling it 100 miles.

394 REP. HAYDEN: This bill would be an environmentally correct bill.

401 CHAIR NORRIS: Is that testimony? Thank you for your comment.

404 REP. HOSTICKA: I appreciate Rep. Hayden's environmental concerns.

411 GEORGE PUGH, GRASS SEED FARMER, SHEDD: Testifies in support of HB 2333.

TAPE 60, SIDE A

020 DAVE NELSON, OREGON SEED COUNCIL: Testifies in support of HB 2333.

048 CHAIR NORRIS: As far as trucks, is 30 an accurate number?

051 NELSON: Mr. Phelan's number of 30 to 50 is accurate.

058 CHAIR NORRIS: Do you feel that modification of the equipment is not the right answer to this problem?

059 NELSON: It would be very difficult and expensive to modify trucks. A straw merchant just isn't financially able to order a new fleet of trucks.

064 CHAIR NORRIS: Do you have any feeling that this process

eliminates a substantial amount of smoke during the burning season?

066 NELSON: It does.

075 CHAIR NORRIS: How many acres of straw in a ton?

077 NELSON: An average of three tons of straw to the acre; 100,000 acres of straw will be baled and moved off by straw merchants.

081 REP. HAYDEN: We're currently burning 150,000 to 200,000 acres?

082 NELSON: We registered 165,000 in the phase down this year; 96,000 acres for the next season. The farmers are doing everything they can.

085 REP. HAYDEN: We're registering 96,000 acres where we used to register 200,000 or 300,000 acres? We're finding markets for this straw?

087 NELSON: That's correct.

088 JANET ADKINS: Would each carrier just go on one specific route, from his baling facility to the Port of Portland?

091 NELSON: Each straw merchant has his own route of travel. There has not been a physical problem on the route. It's a technical problem of the limitations.

100 REP. HOSTICKA: Are there other commodities that have the same characteristics as grass seed?

108 NELSON: It tends to be limited to straw.

123 STEVE JOHNSTON, OREGON DEPARTMENT OF TRANSPORTATION (ODOT):  
Testifies in opposition to HB 2333 and submits written testimony.  
(EXHIBIT E)

161 REP. HAYDEN: I think we could train ODOT personnel the difference between straw and hay and alfalfa.

170 REP. BAKER: I don't find your testimony very convincing. The illustrations given here are facetious and beg the question. I don't think you've done yourself any good by your testimony.

184 CHAIR NORRIS: Would it be feasible to work out with representatives of the industry some special signage that indicates and would be known to other drivers "over height straw load" and would help the inspectors, too?

189 JOHNSTON: There would be some training involved. As far as loads falling off, it would be for hitting of structures. Philosophically, we're not opposed to helping the grass seed problem. Our main concern is setting precedents for allowing divisible loads to be over the legal limit of 14 feet.

202 CHAIR NORRIS: These permits would have to be route specific, wouldn't they?

JOHNSTON: Correct. Signing would help; I don't know if you'd want to make it a condition of the permit itself.

214 CHAIR NORRIS: Concern of truck driver.

218 JOHNSTON: A lot of farmers are not under regulations and they're not as aware of the rules as are the commercial motor carriers. We want to work something out; we just don't like the precedent it would set.

228 REP. HAYDEN: Larger problem is issue of smoke and pollution from burning. The greater safety measure is to allow the bales of straw to be hauled off.

249 JANET ADKINS: Do you issue a permit for someone to go over a county road?

252 JOHNSTON: Issue single trip permits, county would have to issue permit.

263 CHAIR NORRIS: Fiscal impact statement was based on 500 permits issued per year. The earlier testimony suggests that the number would be closer to 100 permits. Wouldn't this make a substantial difference in the fiscal impact?

268 JOHNSTON: Did best guess we could. If the actual count was closer to 30 to 50, the financial impact would be absorbable.

274 CHAIR NORRIS: Closes public hearing.

WORK SESSION - HB 2333

281 REP. ROBERTS: Would fiscal impact go to floor or do we go to revenue?

284 CHAIR NORRIS: Go to appropriations.

287 MOTION: REP. ROBERTS MOVES HB 2333 TO APPROPRIATIONS WITH DO PASS RECOMMENDATION.

294 REP. BAKER: We're looking at five to ten thousand dollars...let's send it to the full committee with a do pass recommendation.

305 ROBERTS: I think we're qualified to pass this on.

311 MOTION: REP. BAKER MOVES TO AMEND REP. ROBERTS AMENDMENT BY REMOVING THE RECOMMENDATION TO BE REFERRED TO THE APPROPRIATIONS COMMITTEE. SO

ORDERED.

VOTE: IN A ROLL CALL VOTE, HB 2333 HAS BEEN REFERRED TO FULL COMMITTEE WITH DO PASS RECOMMENDATION, ALL MEMBERS PRESENT VOTING AYE.

CHAIR NORRIS: Closes work session.

PUBLIC HEARING - HB 3155

(EXHIBIT F)

340 REP. MIKE BURTON, DISTRICT 17: Testifies in support of HB 3155.

402 REP. BAKER: Under current law, can the state executive make this requirement anyway?

403 BURTON: I think this matter is left entirely to the lottery commission. The executive department itself has no authority over the lottery commission; only the governor does.

415 REP. ROBERTS: Is that based on statutory or constitution?

416 BURTON: That's based on an interpretation of the constitution as it currently stands.

TAPE 59, SIDE B

013 CHAIR NORRIS: I suspect the concept of low-qualified bidder enters into this somewhere?

014 REP. BURTON: The bidding for the purchase of machines relies on other qualifications of the company, not just cost.

019 CHAIR NORRIS: That's just a matter of judgement sometimes.

020 REP. ROBERTS: Are we paying more than we should for these machines?

025 REP. BURTON: At present I can't answer that. I have requested information from the Lottery Commission regarding how they have contracted out. I don't have proof at this time, but those questions have been raised.

035 REP. ROBERTS: They've told you, an elected representative, that you can't get the information?

037 REP. BURTON: They have indicated that certain parts in the contracts are proprietary in nature and wouldn't be available to the public. I haven't had a response clarifying what I can and cannot have.

043 REP. ROBERTS: Wants to make sure it is being handled fairly.

048 CHAIR NORRIS: We have two or three bills that would rein them in, including one that would put their expenditures under review and approval of the appropriations committee, which has not been true in the past.

051 REP. BAKER: Does the Secretary of State under current law have the ability to audit the Lottery Commission?

055 REP. BURTON: Yes, but I'm not certain of their constraints.

069 STU RASMUSSEN, VICE PRESIDENT OF ENGINEERING, ALL GAMES MFG.: Testifies in support of HB 3155. Do not pass with (-2) amendments.

093 CHAIR NORRIS: (-2) is what we are considering today, which in effect would establish a preference for Oregon firms if price, fitness and quality are otherwise equal.

096 RASMUSSEN: That's the existing language in the law which was passed two years ago which the lottery has chosen to ignore by setting standards which no Oregon company could meet.

097 CHAIR NORRIS: We have now put a little bit of light on them and put them under a microscope--that may be as far as we can go this trip.

099 REP. HAYDEN: Whose amendments are the (-1), and whose are the (-2)?

100 JANET ADKINS: (-1) amendments are the sponsor's...

101 CHAIR NORRIS: I asked for the (-2) amendments to get this bill into position where I thought we could take some action on it. I felt for us to dictate percentages is micro management. At least saying "preference would be given" the commission will know they have legislative attention on them.

106 RASMUSSEN: Suggests additional language in -2 amendments say the lottery will proactively support, nurture and encourage Oregon businesses to contract with the lottery.

108 REP. ROBERTS: Do you people have a problem judging your product against anyone else's?

114 RASMUSSEN: Absolutely not. Our terminal products meet the lottery's specifications 100 percent.

117 REP. ROBERTS: Did you pass it any way?

RASMUSSEN: Yes, in several locations. We have a higher security terminal, some physical security features, and some software that are proprietary to our product that are ahead of the industry.

123 REP. ROBERTS: How about price?

RASMUSSEN: We were originally the lowest priced vendor because we wanted to buy our way into this market. Talks about lease agreement.

142 REP. ROBERTS: If I'm correct, the same individual who ran the lottery negotiated this, quit the lottery and is now working for the same company that is supplying the machines.

146 RASMUSSEN: Correct.

154 JANET ADKINS: Enters letter from lottery in support of (-2) amendments making a suggestion to add "availability" on line 13.  
(EXHIBIT G)

CHAIR NORRIS: Closes Public Hearing on HB 3155

WORK SESSION - HB 3155

178 REP. ROBERTS: In addition to (-2) amendments Oregon Lottery must show an attempt in trying to support Oregon video machine manufacturers.

189 CHAIR NORRIS: It says "they shall prefer goods designed and manufactured in this state" on line 11.

195 MOTION: REP. HAYDEN MOVES (-2) AMENDMENTS TO HB 3155.  
HEARING NO OBJECTION, SO ORDERED.

MOTION: REP. HAYDEN MOVES HB 3155 AS AMENDED TO FULL COMMITTEE ON  
GENERAL GOVERNMENT WITH DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE, HB 3155 AS AMENDED IS REFERRED TO FULL



COMMITTEE ON GENERAL GOVERNMENT WITH DO PASS RECOMMENDATION, ALL MEMBERS PRESENT VOTING AYE.

PUBLIC HEARING - HB 3181 & HB 3229

208 JANET ADKINS: Reviews HB 3181 and HB 3229 (see Exhibit A)

215 REP. HOSTICKA: Who is the sponsor?

221 CHAIR NORRIS: Rep. Hayden.

222 REP. HOSTICKA: Could we cover HB 3229 at the same time?

224 CHAIR NORRIS: HB 3229 is more of an umbrella; it does include both Lane County and the metro area. 230 REP. HOSTICKA: There are bills that try to segregate processes and procedures in some counties relative to other counties. I would like to ask witnesses why do you think this should only happen here and not in other places?

254 CHAIR NORRIS: Good point. We'll run this public hearing concurrently.

265 REP. ROBERTS: People in Lane County have some very hostile feelings about the boundary commission; the ability of seven people to overrule the petition of ten thousand people is a sore point. This is not the first time I've attempted to abolish the boundary commission.

280 CHAIR NORRIS: I think we may end up with separate bills handling each county.

JANET ADKINS: Reviews the bills (see exhibit A); differences in the effective dates and how they distribute remaining funds.

REP. ROBERTS: My major thrust is to put the control of those decisions into the hands of the county commissioners or even in the hands of metro. At least they're elected people.

285 JEFF TOWERY, CITY MANAGER, CITY OF COTTAGE GROVE: Testifies in opposition to HB 3181 and HB 3229.

318 REP. HOSTICKA: What would it have cost you to do the work the commission does, relative to the dues you pay?

320 TOWERY: I do not know, but it would have exceeded that \$2200 per year.

326 CHAIR NORRIS: Why won't this thing go to rest if it's such a great deal?

332 TOWERY: I don't know. From Cottage Grove's viewpoint, the experience has been positive.

336 KAYE ROBINETTE, CITY COUNCIL MEMBER, CITY OF EUGENE: Testifies in opposition to HB 3181 and HB 3229.

379 REP. ROBERTS: Comments on the dissimilarities of Eugene and Gresham, even though both have boundary commissions. Boundary commission should require city annexing area to be responsible for less desirable areas as well as choice ones.

414 ROBINETTE: In our view it is not in our economic interests to annex properties. We can't demonstrate that the property gain us as much in tax revenues as it costs us in services. The question is whether you develop these outlying areas at a cost that is reasonable to them, or do you put a moratorium on these properties.

014 ROBERTS: What do you mean by a moratorium?

018 ROBINETTE: They can't develop unless they're annexed. If you enact these bills and create a situation where they can't be annexed unless they're contiguous, in effect you have stopped the ability of these people to in-fill these areas...we're trying to co-op with people who want to develop their property. 028 REP. HOSTICKA: Would the existence of a navigable river divide contiguity between one jurisdiction and another? Gives example of annexation problem.

041 ROBINETTE: There is a very important public interest in having a neutral body make this decisions. It isn't a function of who's right.

055 CHAIR NORRIS: Maybe we have the wrong bill here.

056 ROBINETTE: You may have noticed that the mayor of Springfield has suggested naming Springfield the Emerald City.

062 REP. ROBERTS: Not certain who the boundary commission answers to, except themselves. They don't seem to have to owe direct allegiance to the public.

076 ROBINETTE: Line drawing process. It--the boundary commission--is functioning well in our area. I'm not anxious to change something that is working.

089 PAULA TAYLOR, LANE COUNTY BOUNDARY COMMISSION: Testifies in opposition to HB 3181 and HB 3229 and submits written testimony for James Saul. (EXHIBIT H)

144 REP. ROBERTS: In my area many people are paid much money to function, but it seems they also have to have another level of government. I don't think this bill has a chance of getting through either the House or the Senate. Nobody has shown support; I'm a realist and I think we ought to put the bills to sleep and go on with something else.

167 JIM MINARD, CITY OF JUNCTION CITY: Testifies in support of HB 3181 and submits written testimony. (EXHIBITS I & J)

320 KEN MARTIN, PORTLAND METRO AREA LOCAL GOVT. BOUNDARY COMMISSION: Testifies in opposition to HB 3229 and submits written testimony for Ray Bartel (EXHIBIT K).

360 REP. ROBERTS: Commentary on inability of some elected officials to cooperate.

373 MARTIN: Continues with testimony.

TAPE 61, SIDE A

REP. SAM DOMINY, DISTRICT 44: Testifies in support to HB 3181 and HB 3229.

WORK SESSION - HB 3181

064 MOTION: REP. ROBERTS MOVES TO CHANGE DATE ON HB 3181 TO JUNE 30, 1995. HEARING NO OBJECTION, SO ORDERED.

MOTION: REP. ROBERTS MOVES TO CHANGE PROPOSITION 3229 AS TO THE DISPOSITION OF MONEY FROM STATE GENERAL FUND TO THE LOCAL GOVERNMENT.

HEARING NO OBJECTION, SO ORDERED.

JANET ADKINS: Acknowledges letter from city of Creswell indicating opposition to HB 3181 & HB 3229. (EXHIBIT L)

Meeting adjourned

Submitted by

Reviewed by

Laurie Baird  
Committee administrator

Janet Adkins Committee clerk

EXHIBIT LOG:

A - HB 3068: Expanded agenda, submitted by staff, pp 2 B - HB 3068: (-1) Amendment and Fiscal impact statement, submitted by staff, pp 2 C - HB 3068: Written testimony, submitted by Horton, pp 2 D - HB 2333: Fiscal analysis, submitted by staff, pp 1 E - HB 2333: Written testimony, submitted by Johnston, pp 2 F - HB 3155: (-2) Amendment, submitted by staff, pp 2 G - HB 3155: Written testimony, submitted by OLC, pp 1 H - HB 3181: Written testimony, submitted by Taylor, pp 4 HB 3229: I - HB 3181: Written testimony, submitted by Minard, pp 6 J - HB 3181: Written testimony, submitted by Minard, pp 5 K - HB 3229: Written testimony, submitted by Martin, pp 6 L - HB 3181: Written testimony, submitted by Staff, pp 1 HB 3229: