

SENATE COMMITTEE ON AND NATURAL RESOURCES

February 5, 1993 Hearing Room C 8:00 a.m. Tapes 20 - 21
MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn,
Vice-Chair Senator Joyce Cohen Senator Bob Kintigh Senator Bob Shoemaker
Senator Gordon Smith Senator Dick Springer MEMBERS EXCUSED: None
STAFF PRESENT: Peter Green, Administrator Chris Warner, Research
Associate Kus Soumie, Clerk MEASURES CONSIDERED: SB 12Work
Session SB 113Public Hearing SB 114Public Hearing SB 115Public Hearing
SB 160Public Hearing

BILL INTRODUCTION: LC2855

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TAPE 20, SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:12 a.m.

WORK SESSION ON SB 12 - EXHIBIT A WITNESSES: Mike Graine, Oregon Department of Energy Lorna Youngs, Oregon Department of Agriculture Kay Juran, Association of Oregon Food Industries Terry Witt, Oregonians for Food and Shelter

010 MIKE GRAINEY: (introduces EXHIBIT A) Offers testimony on SB 12. Two substantive issues are loans for recycling projects and loans for transportation projects that save energy. Offers testimony on proposed amendments to SB 12 (-1) relative to accounting of the program. Senate Agriculture and Natural Resources February 5, 1993 Page 2

022 - Reviews sections of the bill.

026 CHAIR CEASE: Reviews changes in the bill.

040 MOTION: ? Moves to SEND SB 12 as amended with a DO PASS recommendation

VOTE: CHAIR CEASE: In a roll call vote all members are present and vote AYE.

Sen. Shoemaker will lead discussion on the Floor.

CHAIR CEASE: Closes work session on SB 12 and opens public hearing on SB 113 .

PUBLIC HEARING ON SB 113 - EXHIBITS B. C and D

WITNESSES: Lorna Youngs, Oregon Department of Agriculture Kay Juran, Association of Oregon Food Industries Terry Witt, Oregonians for Food and Shelter

050 LORNA YOUNGS: (introduces EXHIBIT B) Offers testimony on SB 113 and presents overview of EXHIBIT B. - Seeking to charge penalty for licenses not renewed on or before the effective date. - History shows 10 percent

delinquency rate. - Present methods of addressing delinquency are costly. - Working group reviewed provisions used in other agencies.
- They have 80 different licenses ranging in cost from \$5 to \$5000.

143 SEN. KINTIGH: How did you lose your existing powers to levy penalties? 133 YOUNGS: There may have been a penalty for specific licenses at one time, but such is no longer the case. This would establish blanket authority for all the licenses our agency issues.

164 SEN. KINTIGH: Your intent is to give 60 days leeway? 166CHAIR CEASE: We could include that in the bill.

SEN. SHOEMAKER: We will see a proposed amendment with penalties at 20 percent. What is your reaction?

173 YOUNGS: Twenty percent would be a most reasonable number for a greater license fee but not for the smaller fees.

SEN. SHOEMAKER: There would be a minimum.

192 SEN. SMITH: Which are your common licenses and are the farm groups supporting this? Is there a revenue problem necessitating this?

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202 YOUNGS: Very few farmers are licensed. Licenses cover food processors, those who apply pesticides, those who sell food, those who use a scale for weighing their product, brand inspection, etc. SEN. SMITH: Your problem then is with the food processing community rather than the farm community? YOUNGS: Our problem is in general. The highest delinquency rate is in the nursery and Christmas tree area. 240 SEN. SPRINGER: It would increase convenience to be able to speak with one Department representative to determine your licensing needs. This might help reduce the delinquency. YOUNGS: We have greatly streamlined the process. 253 SEN. KINTIGH: Are a lot of these license programs consumer programs and others producer's programs? And as these are fee supported programs, are other fees having to be diverted to support the program when there is significant delinquency? YOUNGS: Yes. SEN. SPRINGER: It appears those obeying the law are being penalized because of the behavior of others. 277 SEN. KINTIGH: Have you considered a penalty system similar to that used for those delinquent with the forest harvest tax, as it has a penalty plus an added interest rate? 289 YOUNGS: If there are other suggestions in addition to penalties we would be happy to entertain those. 294 CHAIR CEASE: What percent of delinquency is there overall? YOUNGS: It is about 7 1/2 percent this licensing period. CHAIR CEASE: Why do people become delinquent? YOUNGS: Our conclusion after review was they have no reason to pay on time because there is no penalty. 309KAY JURAN: (introduces EXHIBIT C) Offers testimony in opposition to SB 113 . - Three major areas of concerns. - A 100 percent penalty doesn't make sense. - The Department of Agriculture fees have doubled in the last year. - They want the

penalties in statute so the Legislature has authority over what is happening.

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313 CHAIR CEASE: Are these consumer protection program fees? How would they be characterized? My question is whether the grocers are opposing the programs or the way the bill is written. JURAN: No, the grocers do not oppose the programs. - Smaller grocery operations are the ones who sometimes pay late. 400SEN. COHEN: A lot of time and money is spent trying to track down those who are not complying with DOA regulations. How much would it cost to send another letter soliciting compliance, instead? 430JURAN: Continues testimony in opposition to SB 113. - Some members suggest noncomplying businesses be closed. - Reviews suggested 20 percent penalty fee, similar to that of California.

TAPE 21, SIDE A 019 SEN. COHEN: Ask the members how long they suggest a business be closed. 025 TERRY WITT: (introduces EXHIBIT D) Offers testimony and proposes amendments to SB 113. - Supports licensing. Wishes persons not be fined for inadvertent delinquency, and penalties not be excessive. - Pesticide licensees typically hold multiple licenses, making multiple penalties quite costly. 056 - A graduated system would be more equitable. 060 CHAIR CEASE: Is there general support for a warning with no penalty until lapse of the 60 days? 062 TERRY WITT: Yes, I support that concept. It would eliminate inadvertent delinquencies. 076 SEN. BUNN: Suggests on amendments, end of the first paragraph, following "penalty schedule follows:" wording similar to "corresponding license fees or the following penalty schedule, whichever is less:" CHAIR CEASE: Closes hearing on SB 113. - Opens hearing on SB 114.

PUBLIC HEARING ON SB 114

WITNESSES: Lorna Youngs, Oregon Department of Agriculture Terry Witt, Oregonians for Food and Shelter

100 LORNA YOUNGS: (introduces EXHIBIT E) Offers testimony on SB 114. - The Department is seeking authority to raise the statutory cap on license fees for pesticide dealers, applicators and consultants.

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116 SEN. COHEN: Could you define "pesticide consultant?" YOUNGS: This is aimed at those who recommend use of restricted use pesticides. - We register products on a calendar year. If revenues follow projections, we would have to have a fee increase in place by January, 1995, to preclude losses. 150 - Reviews recommended fee changes. - Maximum funds that could be raised if this passes are \$250,050. 160 SEN. SHOEMAKER: Some fee schedules are changed more than others. Why? YOUNGS: Review of surrounding states and the ability of the individual to pay the fee impacted this decision. 186 SEN. BUNN: Administrative costs were not considered? YOUNGS: The licensing and certification fees go into a larger pool. Those programs cost more than is received at this time. 170 SEN. BUNN: Are dealers and applicators licensed similarly? 180 YOUNGS: Dealers are not required to pass an examination to be licensed. 194 SEN. KINTIGH: These fees reflect the cap, or the intended fee? 200 YOUNGS: The language of the bill makes them the cap. - Our revenue needs would determine whether we charge these fees. 210 TERRY WITT: Offers testimony in support of SB 114. - They do not wish additional funds to be placed in a general fund. - Questions whether public applicator license fees should remain as they are. - They would like to see more public applicators licensed and a higher fee might discourage that. 260 CHAIR CEASE: (To Ms. Youngs) What percentage of license fee increase does this represent of your total pool? YOUNGS: There are approximately 1700 applicators, representing \$17,000, or 10 percent of the current \$186,000 in revenue. 285 SEN. SPRINGER: Will product registration fees be targeted for increase at some point?

YOUNGS: No, we already have room in the current cap to allow us to adjust in either direction according to revenue need.

300 SEN. SPRINGER: (To Mr. Witt) Do you also represent some applicators?

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305 WITT: My organization represents groups including chemical dealers, manufacturers and pesticide applicators.

SEN. SPRINGER: I would like your statement of support of this bill in writing.

CHAIR CEASE: Closes hearing on SB 114. - Opens hearing on SB 115.

PUBLIC HEARING ON SB 115 - EXHIBITS F and G

WITNESSES: Phil Ward, Assistant Director, Department of Agriculture Bill

Johnson, End Noxious Unhealthy Fumes (ENUF)

328 PHIL WARD: (introduces EXHIBIT E;) Offers testimony on SB 115. - Bill addresses requirement that Department hold a public hearing before entering into a contract exceeding \$500. - History of requirement. - The Department has not been holding these hearings in recent history. - Staff was unaware of this requirement until an inquiry prompted investigation.

CHAIR CEASE: What would the \$500 figure be equivalent to in current dollars? Please provide that figure prior to a work session. ~

WARD: Staff estimates it costs between \$200 and \$500 to hold a public hearing, making compliance with this clause impractical.

394 SEN. SHOEMAKER: What protections preclude abuse?

397 WARD: ORS 279.011 through ORS 291.021 outline state agency procedures required before entering into contracts. - Copies of these laws and rules can be provided. SEN. SHOEMAKER: Those would be helpful, along with a staff analysis. - We need to ensure those cover the same scope of contracts as described in lines 9, 10 and 11.

TAPE 20, SIDE B

005 CHAIR CEASE: Reads into the record a telephone statement from Elizabeth Leppert who opposes deletion of Section 2.

011 BILL JOHNSON: (introduces EXHIBIT G) Offers testimony on SB 115, noting opposition to deletion of Section 2. - They do not object to raising the hearing figure.

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030 CHAIR CEASE: Requests Mr. Ward provide figures on percentage of contracts impacted by the changes proposed. - Closes hearing on SB 115. Opens hearing on SB 160.

PUBLIC HEARING ON SB 160 - EXHIBITS H, I, J, K, L, M and N

WITNESSES: Phil Ward, Assistant Director, Department of Agriculture
John MacIntosh, Oregon Executive Department Larry Knudsen, Oregon
Department of Justice Tom Winn, Oregon Wheat Commission Mick Scott,
Oregon Beef Council Will Wise, Oregon Potato Commission John McCulley,
Oregon Process Vegetable Commission, Oregon Orchard/Grass Seed Producers
Commission Jim Bradbury, Oregon Forest Resources Institute Arthur Van
Veldenhusen

037 PHIL WARD: (introduces EXHIBIT H) Offers testimony on SB 160. -

This bill contains 3 provisions that apply to Oregon's agricultural commodity commissions. - Reviews provisions. CHAIR CEASE: When was that opinion made and what prompted it? WARD: When the Institute was established, they were informed the administrating off'cer hired would have to fit into the pay schedule established by the State personnel compensation rules. This raised questions as to why the agriculture commissions were not complying with that same requirement. CHAIR CEASE: Are these commissioners paid at a higher rate than normal State employees? WARD: It varies, some are probably paid less, others more.

086 SEN. SHOEMAKER: The language in the bill does not make the distinction between compliance with wage schedules and compliance regarding fringe benefits. WARD: The intent was to have this only apply to wages and salaries. Potential amendments have been considered in this regard. 100 SEN. SMITH: Commodity commissions are paying according to the ability of their group. Does that place some agricultural commissions in jeopardy if we are required to pay at the same scale as State employees? 106 WARD: I doubt we would put any commissions in jeopardy. ~ .

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113 SEN. SPRINGER: Do our State's affirmative action laws apply to these commissions? - The public perception of commodity commissions may be that these are State agencies, and they may not understand the discrepancy in salaries.

136 WARD: Commodity commissions are funded completely through the assessments of growers. - Commissions are not articulated in the Governor's affirmative action plan at this time, as they are small entities with limited staff.

163 CHAIR CEASE: According to the Attorney General's Opinion, the current means of operation is contrary to the law? WARD: Yes. - Reviews second provision of the bill. - Historically, commissions have been housed apart from State office facilities. - Third provision of the bill allows the Agency to assess a fee to cover the cost of administrative oversight of commodity commissions. 186 CHAIR CEASE: What kind of oversight does the Department provide? WARD: We conduct elections, secure appointments, approve contracts, review budgets and perform other ministerial activities. 197 JIM MACINTOSH: Offers testimony in support of SB 160. 208 SEN. COHEN: Do you think these people ought to be members of PERS, and if so, why? 212 MACINTOSH: The reason they have advanced, is because, due to economies of scale, they can enjoy better benefits by remaining part of the State system. I presume each commission would determine the salary level based upon the entire benefit package. 218 SEN. SPRINGER: Do appointees expect to be enticed with special incentives? 238 WARD: Generally, in terms of benefits, et cetera, commissions have followed State guidelines. Salary has been the exception. 252 CHAIR CEASE: Please provide us with the salaries of these directors. 255 SEN. SHOEMAKER: I would like to know the numbers of people and their salaries who are less than directors. Also, are these people career people? 281 WARD: We see a tremendous

amount of stability in their employment records.

290 CHAIR CEASE: Are the commissions bound to civil service personnel rules?

LARRY KNUDSEN: It will vary with the employee. Directors and their immediate staff are exempt.

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SEN. COHEN: It seems that these need to be privatized other than for bookkeeping and auditing.

340 KNUDSEN: Commissions function under an involuntary assessment of producers.

411 TOM WINN: (introduces EXHIBIT K) Offers testimony in support of SB 160. - Issue of compensation. - Establishment of office. - Section 3 makes great sense to us. - Believe a fair formula can be developed to reimburse the Department for their oversight activity.

TAPE 21, SIDE B

027 MICK SCOTT: (introduces EXHIBIT L) Offers testimony on SB 160. - The Oregon Beef Council is producer funded in its entirety through check-off assessments in the sales of cattle. - They support the concept of an assessment for Department oversight as described in SB 160. Compensation of commodity commission employees is now determined through a formal job evaluation process in which compensation is determined by producers based upon individual performance. - A requirement to locate commission offices in State office space would have precluded the development of the Cowboys Then & Now Museum, which is considered an educational and promotional asset.

060 SEN. SPRINGER: Are you continuing in a contractual relationship with a national beef organization?

SCOTT: Yes. Fifty percent of the total collections in Oregon go to the national program. Annually, that would amount to \$400,000 to \$450,000.

SEN. SPRINGER: Does an "arms length" relationship between the advocacy agricultural production community and the commissions in terms of contracts back and forth apply to your relationship with the Cattlemen's Association or other private advocacy groups or political action committees?

SCOTT: Under one roof exists the Oregon Beef Council, the Oregon Cattlemen's Association, the Cattlemen's Heritage Foundation and the Oregon Cattlewomen. We undergo an annual CPA audit, and are accountable to the national association as well as the State.

088 WILL WISE: (introduces EXHIBIT J) Offers testimony on SB 160. -

The relationship with the USDA streamlines the regulatory aspects of the commission and its marketing order for the potato industry. - Commissions have met and submitted the proposal that a commodity commission specialist be provided within the Department without the use of general fund dollars. 113 CHAIR CEASE: How do these employees feel about being a part of PERS?

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115 WISE: PERS and the State program are very important to us. - Scale salaries for associations of our budget size are 32 percent of the raw budget. Our salary budget is 18 percent. - The benefits make life a bit more comfortable. - We work unusual days and hours.

148 SEN. SHOEMAKER: Are any portion of the PERS and health benefits paid from State general fund revenues?

?: No, the commission pays for the benefits on the scale as with other state employees. There is no cost to the taxpayer.

164 JOHN MCCULLY: Offers testimony on SB 160. - My commissions are most interested in Section 3 of the bill, relative to paying for oversight. 200 JAMES BRADBURY: (introduces EXHIBIT M) Offers testimony in support of SB

160 . - Suggests modification of the bill that it apply to OFRI as well as agricultural commodity commissions. - Summarizes OFRI's purpose and history. - It was originally intended OFRI have the ability to hire staff and set compensation. - OFRI taxpayers can call a referendum to discontinue the Institute if they are not satisfied with OFRI administration of activities. - OFRI is required by statute to compensate the Department of Forestry for expenses incurred in election of board members. - Other costs incurred by the Department are compensated according to an interagency agreement. 242 - He has submitted a proposed amendment to the bill.

SEN. SHOEMAKER: Do you have any problem incorporating OFRI into the entire reach of SB 160?

BRADBURY: That is exactly our intent. 260 SEN. COHEN: I would support exempting them from 246 and leaving the others where they are.

280 CHAIR CEASE: The Institute could be included here, or a separate bill could be developed. 306 ARTHUR VAN VELDENHUSEN: Offers testimony on SB 160, from the perspective

of a producer. - Commissions are held very responsible by their memberships when it comes to salaries. 328 SEN. SHOEMAKER: Do you favor the bill as proposed to be amended?

VAN VELDENHUSEN: I do. 329 KNILDSEN: (introduces EXHIBIT N) Responds to proposed amendments submitted.

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- It is unlikely that PERS would be affected by this language. - It is possible that insurance benefits might be affected. In response we have proposed the language in EXHIBIT N.

CHAIR CEASE: Closes the hearing on SB 160. Reviews the intention of LC 285 5.

INTRODUCTION OF LC 2855

393 MOTION: CHAIR CEASE: Moves to INTRODUCE LC 2855.

VOTE: CHAIR CEASE: Hearing no objection the MOTION is ADOPTED. All members are present.

395 CHAIR CEASE: I am creating a Subcommittee on Land Use to be composed of Senators Smith, Shoemaker and Cease, with Senator Cease as Chair. CHAIR CEASE: The Democrats have a caucus at 11:15. - Adjourns the meeting at 10:00 a.m.

EXHIBIT LOG:

A - Proposed amendments to SB 12 - Mike Grainey - 1 page B - Testimony on SB 113 - Lorna Youngs - 2 pages C - Proposed amendments to SB 113 - Kay Juran - 3 pages D - Testimony on SB 113 - Terry Witt - 1 page E - Testimony on SB 114 - Lorna Youngs - 1 page F - Testimony on SB 115 - Phil Ward - 1 page G - Testimony on SB 115 - Bill Johnson - 1 page H - Testimony on SB 160 - Phil Ward - 1 page I - Testimony on SB 160 - Larry Knudsen - 1 page J - Testimony on SB 160 - William N. Wise - 2 pages K - Testimony on SB 160 - Tom Winn - 2 pages L - Testimony on SB 160 - Mick Scott - 1 page M - Testimony on SB 160 - James D. Bradbury - 3 pages N - Testimony on SB 160 - Larry Knudsen - 1 page O - Letter in support of SB 160 - Sheldon J. Pratt - 2 pages

Submitted BY: Reviewed by: Kus Soumie Peter Green
Assistant Administrator

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