

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

March 17, 1993 Hearing Room 343 3:00 p.m. Tapes 33 - 34

MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bill Kennemer, Vice-Chair
Sen. Ron Cease Sen. Karsten Rasmussen

MEMBER EXCUSED: Sen. Brady Adams

VISITING MEMBER: Sen. Jim Bunn

STAFF PRESENT: Cherie Copeland, Committee Administrator Richard
Day-Reynolds, Committee Assistant

MEASURES CONSIDERED: Possible Introduction of Committee Bills

Public Hearing and Possible Work Session: SB 498 - Requires
approval of State Fire Marshall or designee before certificate
of occupancy is

issued. SB 576 - Prohibits Real Estate Agency from
publicly reporting disciplinary action until after any appeals of such
action.. SB 38 - Increases maximum license and other
fees relating to consumer electronic entertainment equipment service. SB
611 - Permits sale of firecrackers and bottle
rockets only between June 22 and July 6 each year.

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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 33, SIDE A

014 CHAIR DWYER: Calls the meeting to order at 3:18 p.m.

(Tape 33, Side A) INTRODUCTION OF COMMITTEE BILLS

018 CHAIR DWYER: Introduction of LC 3639 as committee bill.
Introduction of the bill does not imply support or opposition.

022 - Hearing no objections, SO ORDERED.

(Tape 33, Side A) SB 498 - REQUIRES APPROVAL OF STATE FIRE MARSHALL
OR DESIGNEE BEFORE CERTIFICATE OF OCCUPANCY IS ISSUED - PUBLIC HEARING
Witnesses: Heide Anderson, Architects Council of Oregon Alan Costic,
Citizen Dick Bailey, Building Codes Agency Don Woodley, Marion County
Building Officials Gary Underwood, State Fire Marshal Burton Weast,
Oregon Fire Chiefs Association, Oregon Fire

Districts Association Larry Loar, Oregon State Fire Marshals Association

027 HEIDE ANDERSON, ARCHITECTS COUNCIL OF OREGON: Introduces ALAN COSTIC, CITIZEN AND PAST PRESIDENT OF ARCHITECTS COUNCIL OF OREGON. Introduces

(EXHIBIT A). Supports the bill. SB 498 proposes to involves the Fire Marshall's office in building process. This has been a problem.

034 CHAIR DWYER: What are some of the problems?

039 ANDERSON: I want to avoid placing blame by getting into specific problems.

CHAIR DWYER: Without naming names, what are the kinds of problems that would be remedied by this bill.

045 COSTIC: Fire Marshal and Building Codes should both have a role in planning. Once a building is constructed it becomes the concern of the

Fire Marshall. If there is a problem, it raises costs. Gives an example of such a problem. If the Fire Marshall is involved earlier, it can lower costs. We're not asking for additional rules, we're asking that the rules already in place be inserted earlier in the provcess.

086 SEN. KENNEMER: Is this bill the right way to do this? The bill reads that this would occur right before occupancy and it would appear that

the problem occurs much earlier.

090 COSTIC: Our preferred choice would be to see involvement at the permit stage.

093 ANDERSON: Ideally we would prefer the Fire Marshall be involved at the permit stage, but budgetary and staffing restrictions make that

unfeasible. Unfortunately what this bill does is mandate communication between state agencies.

100 SEN. CEASE: This would require more coordination, not more staffing?

102 ANDERSON: Exactly. We have an amendment (EXHIBIT B).

115 DICK BAILEY, BUILDING CODES AGENCY: Not taking a stand on the bill. Bill will do two things; it will exacerbate an already lengthy process

and it will require a second approval process by potentially untrained personnel. We're aware of the need to address the issues targeted by

this bill. We've tried to address these issues outside of the legislative arena, so far unsuccessfully. This may create delays in occupancy permits.

143 CHAIR DWYER: Who is it going to increase costs for?

149 BAILEY: The consumer and the citizen within the state. Duplicative processes will cost additional FTE's.

158 CHAIR DWYER: Nothing's free. You can't even die free. The cost of a death certificate has been raised.

161 SEN. KENNEMER: Why has there been a problem with plan coordination despite attempts to come to a mutual understanding?

171 BAILEY: The Fire Marshall's office feels that their involvement in the planning and construction phases is important from a fire and life

safety perspective. 85% of fire safety regulations are fire and life safety provisions. The coordination is happening in the larger jurisdictions. It's not occurring in smaller areas.

197 SEN. KENNEMER: If there are such comprehensive standards, why are there problems?

204 BAILEY: With most plan submittals, inspectors will find errors with the code application. Through the involvement of the Fire Marshall in the

review process, those errors are worked out. What we have before us today is a result of what happens when the system breaks down.

213 SEN. KENNEMER: What is the background of the inspectors?

219 BAILEY: They take an exam to certify them. They also have ongoing training.

228 SEN. KENNEMER: Do they have an adequate understanding of fire safety issues?

233 BAILEY: WE believe by training and testing that they do. As in all groups of personnel, that understanding will vary.

236 SEN. CEASE: Do the fire and safety regulations include earthquake? If not who does that?

244 BAILEY: No they do not. The rules for seismic requirements are new and they are applied at the plan review stage.

253 SEN. CEASE: I understand that there is no problem in about 90% of all reviews. How do we deal with the 10%?

260 BAILEY: Education sponsored by the Fire Marshall, the Building Codes Agency and the Oregon Building Officials Association.

270 CHAIR DWYER: I wish I had heard this bill before I did the
BHuilding Codes budget.

280 SEN. CEASE: How do we deal with it at this point? The issue is
putting something into statute that you won't need in 90% of the cases.

287 SEN. KENNEMER: I don't believe the problem stems from a lack of
effort on the part of Building Codes to communicate on this issue. When
this

problem arises, is the fall-guy the architect? Who does the builder go
to?

306 BAILEY: The fall-guy usually is the building jurisdiction.

311 DON WOODLEY, MARION COUNTY BUILDING OFFICIAL: Opposes the bill
(EXHIBIT C). Points out that local fire districts may have
additional

requirements. Builders are told by building officials to contact the
local fire marshall before proceeding, and then a copy of that is sent
to the local fire marshall and the state Fire Marshall's office. We
enforce the code, no more. Any exceptions we can find we give to the
applicant. [QUOTE] "The state building code is a minimum/maximum code,
meaning it's the minimum we can accept and the maximum we can require.

We never go above it." The state Fire Marshal's operate by minmum codes
only. Local jurisdictions can determine what the maximum is. It's not
uniform. We get extra expertise from the state Fire Marshal. My staff
is required to have continuing education. I don't know that the state
Fire Marshal's office has the same requirements. We have to eat
whatever mistakes we make. We try to live with our plan review. I
think we coordinate at a much higher rate than 90%; it's closer to 99%.

TAPE 34, SIDE A

049 GARY UNDERWOOD, STATE FIRE MARSHAL: Supports the bill (EXHIBIT
D). Bill will enhance co-enforcement. Discussed cross references
between

the Uniform Building Code and the Uniform Fire Code. The areas of
conflict come when there is a fire and life safety issue
cross-referenced between the codes. Once the building official signs a
certificate of occupancy, the fire marshal is in charge. If there is a

problem there can be a fiscal problem for the architect and/or builder. Gives an example of the kind of problem due to cross-referencing. The

State Fire Marshall will promulgate rules for consistent certification standards across the state. Asking for notification for plans review. The Attorney General is of the opinion that the Fire Marshal has no jurisdiction over new construction. There was a parting of the ways between the Fire Marshal and Building Codes. In larger jurisdictions there is still cooperation between the two. Marion County is an example of a system that works.

152 SEN. CEASE: What determines the involvement of the Fire Marshal as opposed to the local fire officials?

158 UNDERWOOD: State Fire Marshal has state-wide jurisdiction. Local officials are designees of the Fire Marshal.

SEN. CEASE: In those areas where the local officials don't have the necessary credentials or training, does the Fire Marshal designate someone to fulfill this roll?

UNDERWOOD: That's correct.

SEN. CEASE: It looks like there would be substantial cost to this bill. What costs do you foresee?

UNDERWOOD: If this bill passes, there would be little cost. It would change our priorities.

SEN. CEASE: So you would give up something else to make this a higher priority?

UNDERWOOD: We spend so much time dealing with this after the fact. That time would be much better spent dealing with it before the fact.

204 BURTON WEAST, OREGON FIRE CHIEFS ASSOCIATION, OREGON FIRE DISTRICTS ASSOCIATION: Supports the bill. The heart of the issue is when fire

and lifew safety concerns are addressed; after the structure is completed or during the planning stages. It should be resolved during the phase whebn the architects design the structure.

220 CHAIR DWYER: Recalls UNDERWOOD. Requests department priorities in writing. Wants to know what will be sacrificed when the priorities change.

233 SEN. KENNEMER: Why have the Fire Marshal's office and Building Codes not been cooperating with each other?

238 UNDERWOOD: When the Attorney General's opinion was handed down and the two agencies parted ways, there may have been some hard feelings.

245 SEN. KENNEMER: What was the AG's opinion?

251 UNDERWOOD: The Attorney General's opinion said that the Fire Marshal had no jurisdiction in new construction. The Fire Marshal was taken

completely out of the plan review process. Larger jurisdictions continued on with the process in spite of the ruling. That is the point at which some of the hard feelings developed. There is some of this that can be resolved, but some fire and life safety issues don't get addressed until the Fire Marshal inspects the building.

288 SEN. CEASE: Examples?

295 UNDERWOOD: Hazardous materials, fire alarm systems, medical gas systems. These are areas that the Building Code references the Fire

Code and many building inspectors don't like to deal with them or they don't have the expertise.

310 SEN. KENNEMER: Why did the resolution process break down?

315 UNDERWOOD: Hard feelings still exist. I don't think the feelings are strong, but the resolution process is very slow at this time.

330 SEN. KENNEMER: Common sense and both parties tell us that cooperation is preferable to the current stalemate. I don't know how we would get

that back together at the moment.

341 SEN. CEASE: Would this bill basically return the situation to where it was before the AG's opinion?

359 UNDERWOOD: We were actually doing plan reviews before the AG's decision. We don't want to go back to that. That would require a

substantial number of new employees. What we want to do is be involved without increasing cost.

367 SEN. CEASE: Would this change seismic inspections?

370 UNDERWOOD: No, it would not.

376 WEAST: OSHA is requiring we have plans on file. This bill would

mean that we would have those plans on file to meet OSHA requirements.

399 CHAIR DWYER: Wouldn't this require extra people?

403 WEAST: The fire departments are willing to take this on. We can save a lot of time and trouble doing this work up front. This will result in a more efficient way of doing the work.

414 SEN. KENNEMER: Is this a 1986 AG's opinion?

418 UNDERWOOD: Yes, I believe so.

427 WEAST: This was not the only issue that lead to the opinion. When the state changed it, there were lots of extra inspections. We have tried

to not recreate the problems from before. We're not asking for manufactured dwellings being included in this bill. Local people must be adequately trained. We regret the legislature having to step in and resolve this dispute, but we're at that point.

TAPE 33, SIDE B

049 SEN. KENNEMER: If I read the bill correctly, it says the Fire Marshal steps in and signs off at the last minute. It doesn't do what you say

you want it to do.

057 WEAST: We're not opposed to working on changes. What this bill does is empower the Fire Marshal and they would set up the process.

061 SEN. KENNEMER: When does the Fire Marshal become empowered according to this bill?

063 UNDERWOOD: At the certificate of occupancy, but those plans that have critical fire and life safety issues involved will trigger our

involvement earlier. Under the bill, we could be involved earlier. We want to avoid being told at the last minute.

087 LARRY LOAR, OREGON STATE FIRE MARSHALS ASSOCIATION: It's interesting it's the architects, our customers, that are raising this issue, not the Fire Marshal or the Building Codes officials. We want uniformity and

consistency. This bill will force communication. Many people want this but the Attorney General's opinion says it can't happen. I urge passage of this bill.

145 SEN. KENNEMER: Asks question about the minimum-maximum code enforcement.

151 LOAR: There are areas for discretion, but much of the code

is a minimum-maximum arrangement.

164 CHAIR DWYER: Sen. Kennemer will head a work group to get an agreement worked out. (Tape 33, Side B) SB 611 - PERMITS SALE OF FIRECRACKERS AND BOTTLE ROCKETS ONLY BETWEEN JUNE 22 AND JULY 6 EACH YEAR - PUBLIC HEARING Witnesses: James Bunn, Jr., Citizen Sen. Jim Bunn, District 15 Bob Brown, Pyrodyne American Corporation Fritz Hostetler, Western Commercial Fireworks Larry Loar, Oregon State Fire Marshal Rex Jeffreies, Tualatin Valley Fire and Rescue Mike Rodi, Oregon State Fire Marshal

170 CHAIR DWYER: Calls Jim Bunn, Jr. forward to testify. [QUOTE] "Let me tell you for the record son, you and your dad are the only two people

that are in favor of this bill.

178 JAMES BUNN, JR., CITIZEN: Favors the bill. Reads from prepared testimony (EXHIBIT E). [QUOTE] "Mr. Chairman, my name is James Bunn

and I am thirteen years old. I'm here today to testify in favor of SB 611. Firecrackers and bottle rockets are more fun than fireworks that are available in Oregon now. They're more exciting than regular fireworks because they make more noise and people like me enjoy more noise sometimes. It's sort of like going on a motorboat ride compared to riding in a rowboat, because if you want excitement a rowboat will put you to sleep, but a motorboat will give you more excitement.

I think we can use firecrackers and bottle rockets safely and have more fun celebrating the Fourth of July. My cousins from Idaho can buy and use firecrackers and not have problems with them, and I think we should have the same opportunity. Making firecrackers and bottle rockets illegal in Oregon does not prevent them from being brought into our state by other people from other states. Since other people bring firecrackers and bottle rockets into Oregon, we should probably sell them here so everybody may enjoy them, including Oregonians."

208 SEN. JIM BUNN, DISTRICT 15: Supports the bill. Many Oregonians don't understand it's illegal to use and buy bottle rockets and firecrackers

in the state. It comes down to a question of safety versus freedom. We could make these available without creating a great danger to the state. Their use is common, but not legal. We can acknowledge the potential risk, and then let people make the decision for themselves and legalize them. I understand there is concern about this, but the discussion

about where we draw the line has to start somewhere. I think the line is drawn too stringently.

235 BOB BROWN, PYRODYNE AMERICAN CORPORATION, FIREWORKS ADVISORY COUNCIL: Opposes the bill as a licensed fireworks wholesaler. Read from (EXHIBIT F). Gives some history of the current laws. Other states are looking

to Oregon for model in making bottle rockets and firecrackers illegal.

Feels SB 611 is a step backward. Introduces a letter from another wholesaler opposing the bill (EXHIBIT G).

296 CHAIR DWYER: How restrictive are we getting? [QUOTE]"What the hell are people going to do to have fun on the Fourth of July?"

298 BROWN: It's difficult as a businessman to talk negatively about some fireworks. Describes the new non-wire core sparklers and the dangers of wire core sparklers. 314 SEN. KENNEMER: The new wooden handle sparklers aren't a fire hazard?

319 SEN. CEASE: The wire sparklers cause more injuries than anything else?

324 BROWN: The 1992 reports showed that 14 out of 28 injuries came from wire sparklers.

331 FRITZ HOSTETLER, WESTERN COMMERCIAL FIREWORKS: Opposes the bill. Bottle rockets and fireworks are just a bit too exciting. You can get a permit to use these.

350 CHAIR DWYER: Don't you almost have to be an explosives expert to get the permit?

353 HOSTETLER: No. Tells procedure for getting the permit. Have to get the local Fire Marshal's approval.

391 LARRY LOAR, STATE FIRE MARSHAL: Opposes the bill. These fireworks cause fires. We have a problem with bottle rockets now even though they are illegal. Making them legal would intensify the problem we now have.

438 SEN. KENNEMER: Are the wood handle sparklers going to be safer?

441 LOAR: I'm not sure. The issue is the hot wire.

TAPE 34, SIDE B

025 REX JEFFRIES, TUALATIN VALLEY FIRE AND RESCUE: Opposes the bill. Told of 32 roof fires in his fire district from bottle rockets last summer.

The wooden handle sparklers are safer.

051 MIKE RODI, STATE FIRE MARSHAL: Opposes the bill. Firecrackers and bottle rockets cause serious injuries and damage. This is a step

backward.

095 CHAIR DWYER: [QUOTE]"If you keep talking, we're going to pass this bill." Adjourned the meeting at 3:46 p.m.

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Testimony on SB 498 - Heide Anderson - 1 page B - Amendments to SB 498 - Staff - 1 page C - Testimony on SB 498 - Don Woodley - 14 pages D - Testimony on SB 498 - Gary Underwood - 3 pages E - Testimony on SB 611 - Jim Bunn jr. - 1 page F - Testimony on SB 611 - Bob Brown - 1 page G - Testimony on SB 611 - Fritz Hostetler - 1 page H - Testimony on SB 611 - Ralph Rodia - 2 pages I - Testimony on SB 611 - Ron Smith - 2 pages J - Witness Registration - Staff - 2 pages