

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

April 5, 1993 Hearing Room 343 3:00 p.m. Tapes 43 - 45
MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bill Kennemer,
Vice-Chair Sen. Brady Adams Sen. Ron Cease MEMBER EXCUSED: Sen.
Karsten Rasmussen VISITING MEMBER: STAFF PRESENT: Cherie Copeland,
Committee Administrator Richard Day-Reynolds, Committee Assistant
MEASURES CONSIDERED: Public Hearing and Possible Work Session: SB 605
- Authorizes Public Utility Commission to award fees to intervenors,
under certain circumstances, in ratemaking proceedings. SB 978 -
Requires certain investigators to register with Secretary of State. SB
699- Limits authority of lessor over lessee optometrist's practice.

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 43, SIDE A 035 CHAIR DWYER: Calls the meeting to order at 3:05 p.m. (Tape 43, Side A) SB 605 - AUTHORIZES PUBLIC UTILITY COMMISSION TO AWARD FEES TO INTERVENORS. UNDER CERTAIN CIRCUMSTANCES. IN RATE-MAKING PROCEEDINGS - PUBLIC HEARING Witnesses: Bob Jenks, Citizen Utility Board Ron Eachus, Public Utility Commission Tom Barkin, Public Utility Commission Senate Committee on Business Housing and Consumer Affairs April 5, 1993 - Page 2

Jim Anderson, Pacific Power Fred Keast, Pacific Power Denise McPhail, Portland General Electric Dave Overstreet, General Telephone and Electric Gary Wilhelms, US West Communications 041 BOB JENKS, CITIZEN UTILITY BOARD: Testifies in support of the bill. Sponsors of the bill. Introduces (EXHIBIT A) and proposed amendments (EXHIBIT B). 090 CHAIR DWYER: Hands gavel to Sen. Kennemer and leaves the hearing. 137 SEN. CEASE: Why do the utilities oppose this bill? 145 JENKS: They will answer that. I think they like the current process. 163 SEN. CEASE: Isn't the cost to the utilities fairly minimal? 168 JENKS: Yes. 171 SEN. CEASE: Might the intervenor have a substantial chance of effecting the rates? 176 JENKS: Yes. 183 SEN. CEASE: How many states are left that don't have something similar to this? 185 JENKS: Seven. 189 SEN. CEASE: Could the P.U.C. do this? 190 JENKS: No.

191 CHAIR KENNEMER: Hands the gavel to Sen. Dwyer.

192 SEN. ADAMS: How many people do you have contributing to C.U.B. now?

JENKS: 15,000.

SEN. ADAMS: How much funds do you raise?

JENKS: \$130,000 in the last fiscal year.

203 SEN. ADAMS: What type of contributors are you getting

205 JENKS: We have a \$5.00 dollar membership fee.

219 SEN. ADAMS: Are you able to operate with \$130,000?

JENKS: Yes, we can operate, but we can't meet the expectations we face.
Sen-ste Committee on Business Housing and Consumer Affairs April 5,
1993 - Page 3

SEN. ADAMS: Why do you believe you need more funds?

JENKS: We don't have a low cost way of reaching rate payers.

271 SEN. CEASE: The issue is not CUB. The issue is that the utilities
do not like CUB.

324 SEN. KENNEMER: Does this apply to all utility users?

334 JENKS: Yes, this applies to all customers. 345 RON EACHUS, PUBLIC
UTILITY COMMISSION: Testifies in support of the bill. Read from prepared
statement (EXHIBIT C).

TAPE 44, SIDE A

052 SEN. KENNEMER: How will you avoid "fishing"? 062 EACHUS: This is
difficult to quantify. We would be the judge. It may look easy to
"fish," if you totaled up the cases, but on a case by case analysis I
don't think it will happen often.

SEN. KENNEMER: Why don't you represent the ratepayer with in-house
lawyers? EACHUS: I'm not sure we don't do it in-house. There are so many
different classes of customers it's hard to distinguish one policy and
represent all classes of customers.

157 SEN. ADAMS: I'm not sure I follow the logic. Why can't you have a
different attorney for each different class?

167 EACHUS: We don't represent classes of customers. It's our
responsibility to represent customers as a whole.

SEN. ADAMS: How have other states been able to do it?

EACHUS: Those states have set up a separate rate commission.

SEN. ADAMS: Could it be within the Commission?

EACHUS: It could be in the commission. We don't encourage that, it could
create problems.

SEN ADAMS: Are there other states that have done that?

EACHUS: Gives the state of Washington as an example.

200 TOM BARKIN, PUBLIC UTILITY COMMISSION: Clarifies the example.

210 SEN. ADAMS: If the concept is good, why the small funding and why
aren't you arguing for more money than \$130,000?

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proceedings, please refer to the tapes. Senate Committee on Business
Housing and Consumer Affairs April 5, 1993 - Page 4

EACHUS: We have problems with the amendments and are not speaking to them.

238 CHAIR DWYER: Let's stick to the bill and forget this amendment.

240 SEN. ADAMS: Does the bill provide an adequate amount of money?

242 EACHUS: Yes, it would do that, provided the criteria were met.

262 CHAIR DWYER: Gives his analysis of the bill. 287 SEN. KENNEMER: Is the commission the sole determiner of whether the intervention has merit and what it's worth?

292 EACHUS: Yes.

298 CHAIR DWYER: Are you going to determine material in rules?

200 EACHUS: Yes.

325 JIM ANDERSON, PACIFIC POWER: Introduces FRED KEAST, PACIFIC POWER.

328 KEAST: Testifies in opposition to the bill. Reads from written testimony (EXHIBIT D).

366 SEN. CEASE: Would you support it if it did some of these things?

370 ANDERSON: It would go a long way. Continues testimony.

378 CHAIR DWYER: Does it have to go through the budgetary process?

397 EACHUS: Yes, it would have to be included in our budget.

413 SEN. CEASE: This commission is funded by fees.

430 ANDERSON: Finishes testimony.

TAPE 43, SIDE B 025 DENISE McPHAIL, PORTLAND GENERAL ELECTRIC: Testifies in opposition to the bill. Reads from written testimony (EXHIBIT E).

069 SEN. CEASE: If anyone else besides C.U.B. came to the board and made a case before the commission and it had an impact on the rate-making decision, wouldn't they be entitled to whatever the law permitted the same as C.U.B.?

079 McPHAIL: Yes. ~ .

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084 SEN. CEASE: What's the objection to this approach as compared to any other?

091 McPHAIL: We want the money to come out of the \$1.7 million we already pay.

105 SEN. CEASE: When PGE hires an attorney isn't that advocacy?

108 McPHAIL: The rate payers are paying for advocacy for us and the PUC.

118 SEN. CEASE: Would it be to your customer's advantage if you put a cap on what you charge for attorneys?

120 McPHAIL: I don't know.

122 SEN. CEASE: If you put a cap on the amount and had it come out of the account of the PUC would you support the legislation?

127 McPHAIL: I don't know.

133 SEN. CEASE: If the intervenor impacts the rate making decision that reduces the rate to the customer, isn't that the same customer of the utility?

142 McPHAIL: Yes.

145 SEN. KENNEMER: The PUC seems to be moving in a judicial direction rather than a regulatory direction.

158 SEN. CEASE: Very few people in these chambers know much about this agency.

172 SEN. KENNEMER: We should consider a referral to an interim committee.

186 SEN. CEASE: I think that's a good idea, but we should deal with the intervenor issue now.

197 DAVE OVERSTREET, GENERAL TELEPHONE AND ELECTRIC: Testifies in opposition to the bill. Introduces (EXHIBIT F).

239 SEN. CEASE: When you don't get your way with the PUC you still pay for attorneys don't you?

240 OVERSTREET: Yes.

242 SEN. CEASE: Why do you argue differently now?

245 OVERSTREET If the PUC can charge additional fees, technically it would be a way to discourage frivolous intervention.

255 SEN. CEASE: You're not arguing that in those cases you ought not pay the attorney, are you?

260 OVERSTREET: No.

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264 GARY WILHELMS, US WEST COMMUNICATIONS: Testifies in opposition to the bill. Reads from Written testimony. (EXHIBIT G).

281 SEN. CEASE: Under what circumstances would the rates pay for the

intervenor?

289 WILHELMS: It doesn't make sense to support an advisory of mine.

295 SEN. CEASE: I understand that.

299 WILHELMS: The decision is made by another body.

307 SEN. CEASE: This is a very small issue to me. I think we should get on with it.

321 WILHELMS: Continued to read from prepared statement.

347 CHAIR DWYER: If they are doing such a good job then why are you afraid of a third party?

354 WILHELMS: This bill makes regulation more complicated.

366 CHAIR DWYER: Are you saying they should reach the cap and spend the money on regulating you.

372 WILHELMS: No, but that would be preferred. This bill may be unconstitutional. We request you table this bill.

397 CHAIR DWYER: I doubt that will happen.

406 SEN. CEASE: I like the utilities, but on this issue I think they are wrong.

411 CHAIR DWYER: We are going to carry over SB 942.

TAPE 44, SIDE B

(Tape 44, Side B) SB 978 - REQUIRES CERTAIN INVESTIGATORS TO REGISTER WITH SECRETARY OF STATE. - PUBLIC HEARING Witnesses: Gary Vencill, Oregon Association of Legal Investigators Remi Stroud, Oregon Association of Legal Investigators

023 GARY VINCILL, OREGON ASSOCIATION OF LEGAL INVESTIGATORS: Testifies in favor of the bill. Reads from written testimony. (EXHIBIT H).

068 CHAIR DWYER: How many people are in this craft that would register?

079 VINCILL: There are some members who don't want to go beyond this step.

084 CHAIR DWYER: I can support this registration process, but are you going to come back asking for more regulation?

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094 VINCILL: That would be up to the membership. 099 REMI STROUD, OREGON ASSOCIATION OF LEGAL INVESTIGATORS: Compares with Washington example. 107 CHAIR DWYER: I don't have a problem with this bill. 110 SEN. ADAMS: This bill may create the illusion of legitimacy and it creates a new commission. 123 STROUD: It doesn't create a new

commission. Right now there is no check on legitimacy in Oregon.

141 SEN. ADAMS: I could do that with a telephone book. 144 STROUD: That's correct if you had a telephone book for every community in Oregon. 150 CHAIR DWYER: This general process restricts competition, but I'm not afraid of this bill we just don't have the votes here right now to move this bill. (Tape 44, Side B) SB 699 - LIMITS AUTHORITY OF LESSOR OVER LESSEE OPTOMETRIST'S PRACTICE PUBLIC HEARING Witnesses: William Berk, Optometrist Keith Burns, Lenscrafters and Cole Vision 189 WILLIAM BERK, OPTOMETRIST: Testifies in support of the bill. Introduces (EXHIBIT ~ . 240 CHAIR DWYER: If you don't dot every i and cross every t, you're gone? 243 BERK: Yes.

246 SEN. KENNEMER: When you start to exercise control as the lessor you start jeopardizing some of the concerns about independent contractor rights. 258 CHAIR DWYER: I think it's interesting that we have a non-competitive covenant here. 263 BERK: Yes, it is. Continues testimony. 319 CHAIR DWYER: This is not a lease. It's an element of control. 329 BERKS: Yes, but people feel stuck. 350 CHAIR DWYER: I love this bill, but it has the same problem as the last bill, not enough votes here to vote it out. 368 KEITH BURNS, LENS-CRAFTERS AND COLE VISION: Testifies in opposition to the bill. Senate Committee on Business Housing and Consumer Aff, irs April 5, 1993 - Page 8

TAPE 45, SIDE A

007 SEN. KENNEMER: Does this bill speak to the issue of not competing?

010 BURNS: I'm not addressing that. Continues testimony.

035 CHAIR DWYER: Let the market decide what's reasonable.

038 BURNS: While they are doing that, they would be losing money.

049 CHAIR DWYER: The marketplace will solve the problem.

053 BERKS: The issue of hours and fees are a big problem for us.

101 BURNS: If the contracts are abusive, there is always litigation and the board. The places I go are satisfactory.

139 BERKS: There is no financial gain for optometrists in this bill.

152 CHAIR DWYER: Adjourned the meeting at 5:07 p.m.

Submitted by: Reviewed by: Willie Tiffany Richard DayReynolds
Assistant Administrator

EXHIBIT LOG: A - Testimony on SB 605 - Bob Jenks - 19 pages B - Amendments to SB 605 - Bob Jenks - 1 page C - Testimony on SB 605 - Ron Eachus - 2 pages D - Testimony on SB 605 - Jim Anderson - 1 page E - Testimony on SB 605 - Denise McPhail - 5 pages F - Testimony on SB 605 - Dave Overstreet - 3 pages G - Testimony on SB 605 - Gary Wilhelms - 3 pages H - Testimony on SB 978 - Gary Vencill - 3 pages I - Testimony on SB 699 - William Berk - 6 pages , .