

SENATE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS

February 10, 1993 Hearing Room B 9:00 a.m. Tapes 20 - 21A

MEMBERS PRESENT: Senator Tricia Smith, Chair Senator Grattan Kerans,
Vice Chair Senator Brady Adams Senator Wes Cooley

EXCUSED: Senator Peg Jolin

STAFF PRESENT: Joan Van Almen, Committee Counsel Stephanie
Holmes, Committee Research Stasi Kitchen, Acting Committee Assistant

MEASURES HEARD: SB 145

WITNESSES: Richard R. Pooley, P.E., Public Member of
Plumbing Board Harry C. Reeder, P.E., Registered Professional Mech.

Eng. Tom Lindberg, Member Oregon State Board of Boiler

Rules

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

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 ---]

PUBLIC HEARING AND POSSIBLE WORK SESSION - SB 145

TAPE 20, SIDE A

006 CHAIR SMITH: Call to order at 9:40 a.m. Introduces LC 1812,
1813, 1814, 2780, 2940, 2941, 2942, and 2943.

014 MOTION: CHAIR: Moves introduction of the LC's
previously mentioned as committee bills. No objection. So ordered.

020 Chair: Opens hearing on SB 145.

021 GARY WICKS, ADMINISTRATOR, BUILDING CODE AGENCY: Takes no
further action on SB 145.

035 Chair: Please describe the problems relating to SB 145?

041 Wicks: SB 145, Section 8, and Section 32. 051 Chair: Did you
have your counsel look at this draft before it was brought to this
committee?

052 Wicks: Yes.

054 Chair: Therefore, you have decided to deal with building codes in SB 167?

064 Wicks: Yes.

073 Chair: When you return bring with you an analysis of the flaws of SB 145 as you see them and how you have corrected the flaws in your

amendments to SB 167.

075 Wicks: Yes.

077 SEN. KERANS: How did SB 145 and SB 167 end up with the similarities we are seeing?

083 Wicks: Responds to Sen. Kerans question.

133 Chair: Spend time with other organizations that are interested.

140 Wicks: I would like to address your comment. Refers to Dec. 1991, May 1992, October 1992, December 1992, January 1993.

173 Chair: You addressed the individual board members?

180 Wicks: Yes.

211 SEN. ADAMS: As you were responding to these parties regarding SB 145, what is the reason the problems were not addressed and handled at that

time?

213 Wicks: I am unable to respond.

220 Adams: Would you classify your interaction with the interested parties as a dialogue or lecture?

222 Wicks: I don't see how it could be identified as such.

240 Chair: When you return and there are significant changes in policy regarding SB 145, I would like you to tell this committee where they are and why they are being made.

250 Wicks: Yes.

264 GLENN HAVENER, EXECUTIVE DIRECTOR, OREGON BUILDING OFFICIALS ASSOCIATION: Comments regarding the process of SB 145, and SB 167.

TAPE 21, SIDE A

002 Kerans: Have you been comprised as to what has been going on?

003 Havener: Yes.

014 RICHARD R. POOLEY, MEMBER OF THE PLUMBING BOARD: Presents testimony in opposition to SB 145 (EXHIBIT A).

025 Chair: When your board meets next week I hope your board will

discuss SB 145, and SB 167.

031 Pooley: As of this date SB 145 and SB 167 are not on the agenda, I will see to it they are.

033 Adams: From your perspective you have been given information, on what is going to happen, rather than an opportunity to participate in

structuring what is going to happen?

035 Pooley: Yes.

042 Adams: As a board member do you feel you had an opportunity to craft SB 145 as it has currently been presented?

042 Pooley: No.

043 Chair: Has anyone from the Department of Insurance & Finance (DIF) contacted your board about the portions of SB 167 that deal with the

plumbing industry?

044 Pooley: Only the board chairman could answer that.

045 Chair: There has not been anything on your agenda.

046 Pooley: No.

047 Chair: You have not received information?

048 Pooley: Not that I am aware of, as a board member.

052 FRED VAN NATTA, AFFORDABLE HOUSING ADVOCATE, OREGON STATE HOME BUILDERS ASSOCIATION: "Some of the board members are appointed by the Governor,

others are appointed by Mr. Wicks. I could site case and example as to what happens to board members that do not always follow the company line. Frankly you cannot expect the board members to come before you and be candid. It is kind of a question do I want to continue to serve in the process as a board member or do I want to cast my body on the spear for what we believe. I think that you probably need to look, at those of us a little farther out in the circle. We worry about the extent to which we want to be candid sometimes, because there are decisions that are made within the building codes agency that cost thousands and thousands of dollars, and I don't suggest that any one of them are necessarily made based on personal vengeance, but there is probably no industry that is as closely and as specifically regulated as

the construction industry when you are out trying to build a house. An example the sign of a pen a year ago put the aluminum window frame industry out of business in the State of Oregon, just like that. Nobody wants to get quite on the wrong side of those who make those decisions. I don't think you should expect that the board members are going to come before you and be candid. That is an observation I thought I would share."

075 Chair: I appreciate you giving us that insight.

083 Kerans: "Mr. Van Natta do you have any evidence to present to oppose or support the allegations that you have just made. That is to say can you give me chapter and verse or bring me a name or have someone come

forward and testify to that?"

085 Van Natta: "That board members are reluctant to be candid before the committee?"

090 Kerans: "No. That people fear retaliation and that they fear people taking actions against them and that is the motive for people not

speaking their mind about what might be proposed in legislation. Do you have any evidence of which that has ever occurred? If so I would like to see it."

092 Van Natta: "I will visit with some members and perhaps they may want to visit with you privately?"

093 Kerans: "No. My problem, Madam Chair, is that this witness has said some things that I believe are slanderous and I think that he needs to

be very careful about what he says and I would suggest that he go back and read Chapter 171.025 ORS, etc. and read them and see what they say about him and his testimony in front of a committee and the impact of his words on those to whom they are addressed. I consider without evidence your remarks to be slanderous. I would put on notice those to whom that your words were addressed that they have actions which they may take. I would as a legislature I am offended that you would come here and say the things that you have just said unsupported, without evidence and leave them on the record here. I would suggest that you either bring back evidence which supports the allegations that you have made or failing that. I am asking you to go read chapter 171 of the ORS and see what your obligation is as a registered lobbyist under that

chapter and then speak to this committee again visa the allegations you have just made. Do you understand what I have just said?"

111 Van Natta: "Senator, I will take your advise to heart very seriously. There was no time in my testimony did I mean to slander anyone nor do I believe my testimony slandered anyone. My point, basic, understand,

simple point, is that board members are reluctant to get out in front and oppose reorganization proposals that the people in the hierarchy support and I think that is logical on the face of it and doesn't point the finger at any particular individual or slander any individual but I thought it ought to be made because there was a lot of concern and interest expressed by members of the committee about where the boards were on the issues, and my lit point was that one should not overlook that factor and that is a human nature situation and not a slanderous charge at anybody."

124 Kerans: "If you had left it at that you probably would have been safe in saying that especially as you have mentioned that some board members are appointed by the administrator and others are appointed by the

Governor and might feel that they had some allegiance to the person, the appointing authority and I understand that, but you went further in your testimony to say that there is an economic interest that is to say that some vengeance would be taken and as you said with a stroke of a pen one industry was wiped out and people don't want that to happen to them and the suggestion that there might be some economic retaliation. I am

suggesting that if you have any evidence to that you should look at the words that you have said here and if you don't have evidence to support the words that you have said here I would suggest that you would examine them carefully and examine the law and then come back and speak very

carefully about what you have said here. I am not asking you for

further testimony from this witness at this time on this issue because

there is nothing more that he could speak to me about this on this issue regarding my request to him."

135 SEN. COOLEY: Mr. Van Natta I think when we discussed SB 145 several of us in the committee brought up the idea that we were very concerned with the advisory capacity of these committees.

151 Adams: I have heard conflicting testimony this morning between two of the witnesses.

161 Chair: If there is any evidence that can be presented to show that boards are making poor decisions that economically injure the industry

in this state because they are afraid they will be removed from the board then maybe some reorganization is in order, but it may not be what has been proposed here. So if you have evidence, bring it and if you don't have it I would appreciate it if you do as Sen. Kerans has requested.

164 Van Natta: I will Sen. Smith, and I will go back and I will get the record of my testimony and look at the words and I didn't believe I said what Sen. Kerans believed I said, I will go back and respond to that and clarify it to the committee in writing.

172 TOM LINDBERG, MEMBER, OREGON STATE BOARD OF BOILER RULES; MEMBER, INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 701: Presents

testimony in opposition to SB 145. (EXHIBIT C).

191 Wicks: I thought that the allegation that the Oregon businesses ended because of actions that were done at a stroke of a pen was an

appropriate subject to talk to because it relates to the activities of these boards, and I believe what Mr. Van Natta was referring to was the adoption of the energy conservation codes.

220 Kerans: Have you ever engaged in economic retaliation against any member of any board or any board as a result of error speaking out

against a position, policy, or proposal which you have made?

222 Wick: No.

224 Chair: Adjourns at 10:00 a.m.

EXHIBIT LOG:

Exhibit A - Richard R. Pooley, P.E. - Pages 2 Exhibit B - Harry C. Reeder, P.E. - Pages 1 Exhibit C - Tom Lindberg - Pages 1

Submitted by:

Reviewed by:

Stasi Kitchen
Administrator

Joan Van Almen Acting Assistant