

SENATE COMMITTEE ON TRANSPORTATION

March 29, 1993

Hearing Room C 3:00 p.m.

Tapes 40 & 41

MEMBERS PRESENT: Sen. Joan Dukes, Chair Sen. Bob Kintigh Sen. Jim
Bunn Sen. John Lim - Sen. Tricia Smith Sen. Catherine Webber Sen.
Mae Yih STAFF PRESENT: Ruth Larson, Committee Administrator Shannon
Gossack, Committee Assistant MEASURES CONSIDERED: SB 713 SB 567 SB
779

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 40, SIDE A

006 CHAIR DUKES: Calls meeting to order at 3:20 p.m.

PUBLIC HEARING ON SB 779: Requires use of child safety system in motor
vehicle if child is under four years of age and weighs 40 pounds or
less.

SENATOR CATHERINE WEBBER PAT GREGG, STATE POLICE GERI PARKER, TRAFFIC
SAFETY, ODOT MIKE KERBS, INTERN, SENATOR COHEN EUSTACIA SU, M.D.,
OHSU/DOERNBECHER JOANNE FAIRCHILD, R.N., EMANUEL HOSPITAL, OREGON
RESEARCH AND EDUCATION FOUNDATION JIM HENSEL, SAFE CHILD FOUNDATION
~ ~ Senate Committee on Transportation March 29, 1993 - Page 2

018 RUTH LARSON, COMMITTEE ADMINISTRATOR: Explains intent of SB 779.
Submits testimony in support of SB 779 from Dr. James Lace. (EXHIBIT A)
Submits testimony in support of SB 779 from Dr. Grant Higginson.
(EXHIBIT B)

047 SENATOR CATHERINE WEBBER: Testifies in support of SB 779 and
submits and reviews written testimony. (EXHIBIT C) 060 MIKE KERBS,
INTERN FOR SENATOR JOYCE COHEN: Testifies in support of SB 779 and
submits and reviews written testimony. (EXHIBIT D) 075 JIM HENSEL,
SAFE CHILD FOUNDATION: Testifies in support of SB 779. -Explains the car
seat subsidy program in Oregon. -This should not create a hardship on
low-income people. 090 PAT GREGG, OREGON STATE POLICE: Testifies in
support of SB 779 and submits and reviews written testimony. (EXHIBIT E)
118 GERI PARKER, TRAFFIC SAFETY DIVISION, ODOT: Testifies in support
of SB 779 and submits and reviews written testimony. (EXHIBIT F)
-Explains how seat belts don't fit small children. 164 CHAIR DUKES:
My son is very thin for his age and wouldn't meet the weight
requirement, but he doesn't fit into the standard car seat. Is there
something that can take a child from 3 or 4 years of age? 176 PARKER:
Discusses different child seat designs. 196 CHAIR DUKES: So a
combination lap and shoulder belt meet the requirements in this bill?
199 PARKER: If they meet the weight and age criteria. 204 CHAIR
DUKES: Are the specialty car seats readily available? 210 PARKER: The
seats for disabled children are very expensive but the safety harnesses
are quite comparable to the cost of a standard car seat. 219 DR.
EUSTACHIA SU, OHSU/DORNBECKER: Testifies in support of SB 779.
-Discusses personal experience treating children who have been involved
in car accidents. -Discusses injuries children have suffered as a result

of the lap belt only. -Overall the benefit to all Oregonian children far out weighs any concerns or considerations regarding economics and the occasional children who don't fit into the standard safety seats.

257 SEN. WEBBER: Asks where the age and weight requirements came from. 261 SU: That is the national standard. When children reach the age of four they are, in general, skeletally mature enough and strong enough that they are able to do some compensation for the relative lack of restraint. #. ,.

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. Senate Committee on Transportation March 29, 1993 - Page 3

269 SEN. WEBBER: Have you seen a significant number of injuries in your years working in the emergency room?

279 SU: Discusses different cases she has encountered in her years of treating patients.

277 SEN. WEBBER: I made the assumption that seat belts were safe enough for a child. Is that what parents who have injured children come in and say? Have you had any feedback on that from parents? 287 SU: I personally have not heard that from parents. Most of my dealing have been with parents who were not aware of the law or just plain ignored it and decided their kids would be safe without. The message does come across that if the law says it's okay after a year old to put them in the standard seatbelt then it must be okay. 293 SEN. LIM: Asks about seating in back seats. 297 SU: Most car seats work with just a lap belt. If they have four children and there were only three seat belts in the back seat I think that would be the limiting factor and one of those children would have to go in the front seat. 306 SEN. SMITH: I have a four year old who weighs 38 pounds and he would not fall under this law. Recently I have tested him outside his car seat and the shoulder and lap belt hits him on his neck and the belt is also too high. What would happen in an accident? -Explains fabric adjusters for shoulder straps. 327 SU: As long as the lap belt is well fastened it tends to restrict the movement of the body. -Discusses vehicles that have the automatic shoulder straps. -Explains fabric adjusters for seat belts. 347 SEN. LIM: Which is more important the age or the weight? 357 SU: The height is more of an issue in terms of the standard seat belt. The ideal combination would be the lap and the shoulder together. 375 JOANNE FAIRCHILD, INJURY PREVENTION PROGRAM: I teach a class for people who have been cited for not wearing a seat belt. -Explains different fatalities she has observed.

TAPE 41, SIDE A

WORK SESSION ON SB 779: - MOTION: Senator Smith moves SB 779 to the floor, with a "DO PASS" recommendation.

VOTE: In a roll call vote the motion carries unanimously. Senator Webber will carry.

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. Senate Committee on

PUBLIC HEARING ON SB 713: Authorizes Publie Utility Commission to alter. relocate or close farm or private grade crossings on railroad lines designated as high speed rail systems.

CRAIG REILEY, PUC ERIK EAST, ODOT EVERETT CUTTER, OREGON RAILROAD ASSOCIATION MARVIN FJORDBECK, OREGON RAILROAD ASSOCIATION STEVE GREEN, ODOT

063 CRAIG REILEY, PUC: Submits and reviews written testimony.
(EXHIBIT G)

089 SEN. SMITH: Asks if eminent domain is stated clearly in SB 713?

094 PAUL GRAHAM, ATTORNEY GENERAL OFFICE: Explains intent of SB 713.
-We don't want to take property if we don't have too.

104 SEN. SMITH: What if we put language in the bill that said that the eminent domain process would only be used if all other avenues have been exhausted.

108 GRAHAM:I have no problem with that.

110 REILEY: That doesn't seem to pose a problem.

115 SEN. SMITH: Is that the intent of the Commission?

116 REILEY: I believe so.

117 CHAIR DUKES: Is there a clear definition of a "taking"?

123 GRAHAM: Explains the terms taking and condemnation.

129 CHAIR DUKES: Would PUC determine a taking? 133 GRAHAM: PUC would determine the safety issue. -Discusses who would have the authority in regard to a taking. 145 CHAIR DUKES: Is it clear as to who makes what decisions? 147 GRAHAM: It is the Commission who decides whether to close a crossing. Once the Commission has made a decision then it is up to ODOT to decide whether there has been a taking. -Discusses the idea of alternative access. 170 REILEY: Over passes are alternatives. 176 SEN. BUNN: Asks about costs to the user of the road. ~ .\

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marb report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Committee on Transportation March 29, 1993 - Page 5

186 GRAHAM: Asks for clarification on question.

189 SEN. BUNN: I'm talking about someone who has been paying money ever year for an easement to cross the tracks and that crossing gets closed and in goes an underpass. What will that person be charged?

201 GRAHAM: If you're talking about an overpass then there hasn't been a taking. The farmer is just having a grade crossing removed and having an overpass or underpass put in. 205 SEN. BUNN: The farmer doesn't own what he is crossing. -Clarifies cost for person to use

crossing. 215 ERIC EAST, ODOT: Clarifies intent of SB 713 in regard to high speed rail. -Discusses different options for accomodating right of ways. -There is no rental charge to the farmer to help pay for that. 232 SEN. BUNN: When you come up with an alternative it's a better deal for the farmer. 240EAST: There are considerations that go on when talking about costs in relation to access alternatives. We still have a lot of work to do before we come up with solutions. 243 SEN. BUNN: Is it anticipated that you're going to recover costs from the farmer? 248 EAST: No. There would not be any lease costs to the farmers. 252 SEN. SMITH: Questions language in line 17, page 2 of SB 713. 260GRAHAM: Discusses working relationship between PUC and ODOT.

285 EAST: ODOT intends to work closely with PUC. We would develop a local public participation program in the high speed rail corridor.

324 GRAHAM: Clarifies language on line 13 of SB 713 regarding ODOT jurisdiction.

354 SEN. SMITH: Is ODOT a party in a case just like the landowner?

360 GRAHAM: Yes. Every party must agree or there is a hearing.

369 SEN. SMITH: What would a decision be based on?

378 GRAHAM: It would need to be supported by evidence.

376 SEN. YIH: Asks about the idea of the local advisory committee. Asks about the issue of appraisals.

388 EAST: We have our own appraisers and sometimes they are challenged by private appraisers.

400 SEN. YIH: In the case of a dispute what appraisal is used? ~ ? . 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, Senate Committee on Transportation March 29, 1993 - Page 6

TAPE 40, SIDE B

004 CHAIR DUKES: In the wake of two appraisals what do you do?

008 GRAHAM: Discusses line 24, page 2 of SB 713 in relation to decisions.

014 CHAIR DUKES: So if the Department, under this language, determines not to reach a settlement then the property owner's only option is to go to court.

014 GRAHAM: Yes, the same under existing law. This bill would be treated the same as any other condemnation under existing law.

020 CHAIR DUKES: Isn't there a process of some sort before the courts?

027 STEVE GREEN, ODOT: There is no official process, but once an offer is made to a property owner based on an appraisal we work very hard to work out a negotiated settlement with the property owners. Only about 1-2 % of the properties that we buy actually result in a condemnation trial. 030 CHAIR DUKES: Asks for clarification on

Senator Yih's question regarding the appraisals. 031 GREEN: With or without the appraisal we would work with the landowner. -Explains process for appraisals. 043 SEN. YIH: What if I can't afford an attorney to go to court? 057 GREEN: We are this moment attempting to work with the alternate dispute resolution council to come up with a mediation process before court. It is still the property owner's right to have that hearing. There is a clause that would pay for the landowners attorney fees if they won. 061 SEN. LIM: How many appraisers do yo have? 063 GREEN: Approximately 80 full time in acquisition but they do a variety of other tasks as well as appraisals. 068 SEN. LIM: I don't think it's a good idea to have the property appraised by you're own people. Couldn't the two parties involved choose an appraiser? 078 GREEN: I defer to the wisdom of the legislature in having established this process and as a public employee it is my job to carry this out. 080 SEN. LIM: Asks about a possible third party appraisal and how that might save time and money. 083 GREEN: It would require people to wave their constitutional rights. 087 SEN. SMITH: You're suggesting that before anyone appraises property at all that the Department and the landowner get together and choose an appraiser? If I were a property owner I would not do that.

These n~inutes contain rnateriale which paraphrase and/or surarnarize staten~ents made during this session. Only text enclosed in quotation rnarnaru report a speaker's exact words, For complete contents of the proceedings, please refer to the tapes. Senab CommiHoe on Traosportadon March 29, 1993 - Page 7

095 SEN. YIH: When there is a disagreement then the two parties can get together. 101 CHAIR DUKES: My guess is that if there is any way to work it out before it goes to court then that is what you do? 108 GREEN: We do try to work out agreements with the property owners. Only 1-2% of the acquisitions ever go to court. 115 CHAIR DUKES: Asks about people being intimidated by taking on "city hall". 118 SEN. SMrlti: How many private crossing are anticipated? 120 REILEY: There are approximately sixty private crossing to be addressed. 123 SEN. LIM: What is the estimated cost? 125 GREEN: It is a very difficult to determine that. It is a case by case situation.

145 EVERETT CUTTER, OREGON RAILROAD ASSOCIATION: Test)files in support of SB 713 .

157 MARVIN FJORDBECK, ATTORNEY FOR SOUTHERN PACIFIC: Submits and reviews written testimony. (EXHIBIT H) -Explains intent of SB 713-1 amendments. (EXHIBIT 1) -Discusses the cost apportionment provisions in statute.

250 SEN. SMITH: What are you changing? What is the difference in terms of process?

252 FJORDBECK: Discusses the issue of cost apportionment statutes. We wanted it clear that the costs of dealing with these private crossing comes solely from high speed rail funds.

276 CHAIR DUKES: Asks for clarification in regard to cost apportionment and why this is important to them.

278 FJORDBECK: The cost apportionment statutes deal with cost apportionment issues to public bodies, local road authoritites and to the railroad. Our view is that private crossings in the high speed rail

corridor should be dealt with through public funding and not through contributions through private fund.

285 SEN. SMITH: You take care of that in subsection 6, line 26, of page 2 when you make your amendments that change that language. What is the difference in procedures and standards? 288 FJORDBECK: No change in procedure the only purpose for deleting the reference is to make clear that the cost apportionment provisions don't apply. -Clarifies references to ORS 763.030 and ORS 763.130. 336 SEN. SMITH: I still don't see where it says that in the statute. I want a clear understanding of the actual change in line 10 and what the whole change will be. . ~ , ,

These minutes contain material 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 Senate Committee on Transportation March 29, 1993 - Page 8

342 FJORDBECK: Continues reviewing SB 713-1 amendments regarding section 2 of SB 713. 355 CHAIR DUKES: Clarifies language in section 2 of SB 713. You're trying to make sure that it is just the public funds that are used. 388 FJORDBECK: We are trying to make sure that there is no invasion of the grade crossing protection account or any other railroad/highway crossing funds not specifically allocated to high speed rail. 399 CHAIR DUKES: The rail companies don't want to have to pay for it.

402 FJORDBECK: That is correct. -Continues with review of SB 713-1 amendments.

429 SEN. SMITH: Asks for clarification on why the amendments are needed.

TAPE 41, SIDE B

011 GRAHAM: Clarifies ORS 763.020 and 763.030. -The allocation statutes all tie into ORS 763.030. 038 GRAHAM: What they are doing is protecting the GCPA. 043 SEN. SMITH: Is the proposed language change in line 10 of SB 713 intended to mean the same things that the current language intends? 050 GRAHAM: Yes. It is consistent with what we have in terms of the process. The only substantive difference is the one about funding.

PUBLIC HEARING ON SB 567: Authorizes Public Utility Commission to issue authority to transport wood pellets without hearing and order.

TONY KUHN, EVERGREEN FOREST PRODUCTS SENATOR ROD JOHNSON DAN KNIGHT, NW PELLET MILLS RALPH WEELDRYER, THE PELLET CENTER

127 TONY KUHN, EVERGREEN FOREST PRODUCTS: Submits and reviews written testimony. (EXHIBIT ;1) 131 SENATOR ROD JOHNSON: Testifies in support of SB 567.

150 CHAIR DUKES: Are there any by-products?

142 TONY KUHN: Reviews testimony in regard to shipping costs. ~ , ~ - 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. Senate
Committee on Transportation; on March 29, 1993 - Page 9

173 DAN KNIGHT, NW PELLET MILLS: Testifies in support of SB 567.

221 RALPH WEELDRYER, THE PELLET CENTER: Testifies in support of SB
567. This is an economic issue. This is the cleanest pellet fuel
available. -Discusses regulations currently in practice. 268 CHAIR
DUKES: Adjourns meeting at 5:00 p.m.

Submitted by,

Reviewed by

Sharon Gossack

Ruth Larson Assistant

Administrator

EXHIBIT LOG:

A - Testimony of Dr. James Lacey, SB 779, Staff, 1 pg. B - Testimony of
Dr. Grant Higginson, SB 779, Staff, 1 pg. C - Testimony Senator Webber,
SB 779, 1 pg. D - Testimony Senator Cohen, SB 779, 1 pg. E - Testimony
P.B. Gregg, SB 779, 2 pas. F - Testimony Geri Parker, SB 779, 12 pas. G
- Testimony Craig Riley, SB 713, 4 pas. H - Testimony Marvin Fjordbeck,
SB 713, 2 pas. I - SB 713-1 amendments, staff, 2 pas. J - Testimony Tony
Kuhn, SB 567, 3 pas.

. . . 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.