

SENATE COMMITTEE ON TRANSPORTATION

April 14, 1993 Hearing Room C 3:00 p.m. Tapes 52 - 53 MEMBERS  
PRESENT: Sen. Joan Dukes, Chair Sen. Bob Kintigh Sen. Jim Bunn Sen.  
John Lim Sen. Tricla Smith Sen. Catherine Webber Sen. Mae Yih STAFF  
PRESENT: Ruth Larson, Committee Administrator Shannon Gossack,  
Committee Assistant MEASURES CONSIDERED: SB 713 SB 105S SB 1090

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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 52, SIDE A

003 CHAIR DUKES: Calls meeting to order at 3:15 p.m.

WORK SESSION ON SB 713:

PAUL GRAHAM, DEPARTMENT OF JUSTICE DALE HORMAN, ASST. ATTORNEY GENERAL

010 LARSON: Explains intent of SB 713. SB 713-1 amendments. (EXHIBIT  
A) -Authority for PUC added in ORS. 767.080. -Clarifies problem with  
attorney fees in regard to hearings in which cities and counties are  
involved. Submits letter from Railroad attorney. (EXHIBIT B) 050 SEN.  
KINTIGH: If they get a better offer than what ODOT gives them their  
attorney fees are then covered. ~ - 03 LARSON: That is correct.  
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056 CHAIR DUKES: Submits SB 713-2 amendments. (EXHIBIT C) -I wanted  
it to be very clear that they would get their attorney fees paid.

065 LARSON: The attorney's believe it is not necessary to have this  
amendment. Concerned about intentional oversight if it becomes common to  
reference the condemnation law. 068 SEN. SMITH: Would the same be  
true for the SB 713-1 amendments in section 3, which applies to cities  
and counties? Is that also current law? 075 LARSON: That is current  
law and isn't condemnation. -Explains current law in regard to private  
crossing versus public crossings. 092 SEN. SMITH: I understand the  
issue of putting something in statute that is unnecessary and setting a  
precedent. Does the same thought apply to SB 713-1, section 3, that  
applies to cities and counties? 106 PAUL GRAHAM, DEPT. OF JUSTICE:  
That language about cities and counties is already law. It has nothing  
to do with condemnation. If a city or county asks the PUC to do  
something with a crossing over city or county jurisdiction and the PUC  
does something they don't like and they sue and win, then they get  
attorney fees paid. 118 CHAIR DUKES: Do you see a problem with the SB  
713-2 amendments?

119 DALE HORMAN, ASST. ATTORNEY GENERAL: ORS chapter 35 is general law  
for condemnation which outlines procedure to go through for any public  
body in any situation where condemnation occurs. Protection and  
procedures are there and it also incorporates some federal procedures.  
If it's there it's going to apply it really is unnecessary to mention  
it.

130 CHAIR DUKES: Will it do damage if included?

136 HORMAN: If it's not included in other situations where condemnation is referred to then is that intentional. Also, the way the SB 713-2 amendments are drafted it specifically refers to costs and attorney fees which raises a question; does that apply to other parts of ORS Chapter 35?

MOTION: Senator T. Smith moves SB 713-1 amendments to SB 713.

VOTE: Hearing no objection the motion is adopted.

148 SEN. LIM: If the city or county prevails then who will pay for the attorney fees? 153 CHAIR DUKES: The PUC would have to pay. This deals with city or county having to do something. We were concerned about it because it was pulled out of context. They assure us that in Chapter 35 there is a provision that will protect people. It's already there just in another section of law we aren't dealing with today.

MOTION: Senator T. Smith moves SB 713, as amended, to the floor with a "DO PASS" recommendation. ~ ,~

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VOTE: In a roll call vote the motion carries with Senators J. Bunn, Kintigh, Lim, T. Smith and Dukes voting AYE and Senators Webber and Yih excused. Senator T. Smith will carry the bill.

WORK SESSION ON SB 1055:

213 LARSON: Explains the intent of SB 1055 and discusses some testimony from previous hearings on SB 1055. -Submits SB 1055-1 amendment. (EXHIBIT D) 245 SEN. KINTIGH: It could be any three days as long as it is consecutive days. MOTION: Senator T. Smith moves SB 1055-1 amendment to SB 1055. VOTE: Hearing no objection the motion is adopted. MOTION: Senator T. Smith moves SB 105S, as amended, to the floor with a "DO PASS" recommendation. VOTE: In a roll call vote the motion carries with Senators J. Bunn, Kintigh, Lim, T. Smith and Dukes voting AYE and Senators Webber and Yih excused. Senator Kintigh will carry the bill.

PUBLIC HEARING ON SB 1090: Relating to exemption from PUC in regard to livestock.

JOHN MCCULLEY, OREGON CATTLEMEN ASSOCIATION MIKE STEVENSON, CITIZEN BOB DEBRAGA, OREGON CATTLEMEN ASSOCIATION JOHN HANGER, OREGON LIVESTOCK AUCTION DAN BANKE, C & B LIVESTOCK RIC HOYT, LIVESTOCK PRODUCER DUKE TSCHANTA, DT RANCH JIM O'CONNOR, CITIZEN LYNN LUNDQUIST, OREGON CATTLEMEN ASSOCIATION POLLY OWEN, CATTLEMEN ASSOCIATION BRETT WOLF, NORTHWEST LIVESTOCK LEE REDDINGTON, RL RANCH NORM MYERS, PUC MIKE MEREDITH, OTA JEFF STEVENSON, KNEE DIP CATTLE COMPANY

270 LARSON: Explains intent of SB 1090. Submits PUC carrier list. (EXHIBIT E)

310 JOHN MCCULLEY, OREGON CATTLEMEN ASSOCIATION: Testifies in support of SB 1090.

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327 MIKE STEVENSON: Testifies in support of SB 1090. -Explains his business and the problems with transporting livestock. -Discusses the list of PUC permitted carriers. (EXHIBIT E) 369 CHAIR DUKES: Asks about hauling efficiently. 374 STEVENSON: Explains animal stress and livestock death. 380 CHAIR DUKES: Why don't regulated carriers do a good job? 389 STEVENSON: Explains the experience and expertise needed to haul livestock. 394 CHAIR DUKES: Is that an undo hardship? 398 STEVENSON: I think PUC does a poor job of regulating it. 403 CHAIR DUKES: So you couldn't move them legally when you wanted to move them?

TAPE S3, SIDE A

007 STEVENSON: Yes, and it is a hardship. I will move about 100 loads this summer. 012 CHAIR DUKES: How does that work? How many on a load? 016 STEVENSON: About 65-73 on an average truck.

017 SEN. SMITH: Do you broker the transportation? You couldn't get your loads shipped?

023 STEVENSON: Yes we do broker the transportation. I have had trouble getting trucks and have sent illegal loads down the road. 027 SEN. SMITH: Do you know you are in violation of the law when you do that? -Asks who he called to ship. 028 STEVENSON: Yes I do know it is illegal. -Discusses some carriers on PUC list. 032 SEN. SMITH: There were no certificated trucks to move your cattle? What would happen if you didn't ship them and just waited until there was a truck available? 036 STEVENSON: Discusses several reasons why livestock must be shipped on time. 038 SEN. SMITH: Do you think PUC rates are too high?

042 STEVENSON: Explains PUC fees in-state versus out-of-state.

050 SEN. SMITH: Could you ask the carriers to add more trucks? .

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051 STEVENSON: There are less and less trucks all the time to choose from.

056 SEN. SMITH: Do you think quality would go up if regulation went down?

060 STEVENSON: I don't know that, and that isn't what I am saying. I think the trucking industry is struggling right now and for them to buy another truck isn't feasible.

064 SEN. SMITH: I was thinking more about scheduling. How much notice can you give?

065 STEVENSON: One week in the busy season.

067 SEN. KINTIGH: Asks about the carrier list in regard to location.

070 STEVENSON: Explains one carrier on west side that is out of business. Discusses empty miles versus loaded miles.

079 SEN. LIM: When we deregulate this the quality could go down even further.

082 STEVENSON: There are safe trucks that I feel could haul my caule. They also are not PUC permit holders. 088 SEN. LIM: Can't you negotiate with the carriers we have now? 094 STEVENSON: For in state hauls there isn't any negotiation. PUC sets the rate. 099 SEN. LIM: Could you get special permission during the summer since that is the peak season? 126BOB DEBRAGA, OREGON CATTLEMEN ASSN: Testifies in support of SB 1090. -Explains the problems with getting trucks. 138 CHAIR DUKES: They still let you on BLM land?

140 DEBRAGA: Yes. Discusses his shipments.

153 JOHN HANGER, OREGON LIVESTOCK AUCTION ASSOCIATION: We have done a lot of business with some of these folks. Most transportation is very limited time period. Deregulation could bring some of the good permit haulers that aren't currently legal to get into the area in Willamette Valley even though they hold a PUC permit. -There could be 30 trucks on that list that would be legal, good trucks.

187 SEN. KINTIGH: The list can only serve a certain area?

190 HANGER: Explains his permit and what areas he had.

212 CHAIR DUKES: What about authority to get a broader permit?

213 HANGER: So many hoops to jump through.

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220 DAN BANKE, C & B LIVESTOCK: We are trying to receive cattle. PUC was originally set up to provide for viable trucking in Oregon so we had a service organization to do so. That has not been the end result. The industry has changed some. It wasn't to protect private carriers. Regulations have failed because of reduction in private carriers. Paperwork and associated costs something needs to be worked at. As a tax payer I don't like the PUC inefficiency. The fact that it is cheaper in other states is not a good economic incentive. There is a system in place that provides no incentive.

289 CHAIR DUKES: What about safety concerns if we deregulate?

297 BANKE: The safety regulations would still be in place that authority would not be challenged. A Class B still has to be given for them to transport cattle. They just wouldn't have to go through the long permitting process where other permit holders can testify on who gets to have one.

315 CHAIR DUKES: Why would PUC issue authority if anybody can do it? Other than collecting a fee I don't know what the purpose would be if we deregulated in making PUC issue a permit?

322 BANKE: They would still need authority. When a truck crosses the scales they are still required to be in line with safety standards.

342 RIC HOYT, LIVESTOCK PRODUCER: Explains his business and how many cattle he moves. -Discusses on the number of citations he has had from PUC. 370CHAIR DUKES: Where you cited for operating outside the area?

373 HOYT: Reviews why he has been fined by PUC.

TAPE 52, SIDE B

040 DUKE TSCHANTA, DT RANCH: Testifies in support of SB 109 0. -Explains his business and how this legislation effects him.

078 CHAIR DUKES: So does a Class B need PUC authority?

087 SEN. KINTIGH: The Class A carriers cargo insurance that is required isn't enough to cover a load of cattle currently.

090 DEBRAGA: Most people we haul for require a \$50,000 binder in effect. 093 SEN. KINTIGH: The rancher can tell the carrier I want you to have the \$50,000 dollar binder or you don't take my cows. 103JIM O'CONNOR, CITIZEN: Seems that the PUC was set up as a service industry and it isn't doing servicing. I believe it is working contrary to my benefit. 127 LYNN LUNDQUIST, OREGON CATTLE ASSOCIATION: Testifies in support of SB 101 9. -Discusses the difference between intra-state and inter-state trucking. ~ , ,

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-Talks about rates. 178 POLLY OWEN, VICE PRESIDENT, CATTLEMAN ASSOCIATION: Submits written testimony from individuals that couldn't be here. Other from a permit holder in Klamath Falls, in favor of deregulation who tried to get their PUC permit extended so they could come into the Willamette Valley. (EXHIBIT Ii) 212 SEN. SMITH: If this passed and carriers weren't required to carry insurance how would you handle that? 216 OWEN: The current authority isn't telling them to get insurance that is something that the producers are requiring it. 220 LARSON: Submits written testimony of Charlie Everly. (EXHIBIT G) 244 BRETT WOLF, NORTHWEST LIVESTOCK: We have currently required a permit. -Testified in opposition to SB 1090. 286 SEN. SMITH: What would happen to your operation if this bill passes? 292 WOLF: I would sell out. 294 SEN. KINTIGH: Which permit did you buy? 297 WOLF: Previously LJ Trucking. 304 LEE REDDINGTON, RL RANCH: Testifies in opposition to SB 1090 and submits written testimony. (EXHIBIT H) TAPE 53, SIDE B 030 SEN. KINTIGH: Do you buy cattle feed? 030 REDDINGTON: I mostly raise my own and buy a little grain. 033 SEN. KINTIGH: How would you feel about the price of feed being regulated? 037 REDDINGTON: I don't believe in unfair competition. 050 SEN. KINTIGH: I still believe in free enterprise and competition. 057 SEN. SMITH: What would be the first thing to be cut if you didn't make enough money on your loads? 060 REDDINGTON: The truck and maintenance. 062 SEN. KINTIGH: He is still subject to safety inspections by the weigh stations.

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074 NORM MYERS, PUC: Testifies in opposition to SB 1090. Submits and reviews written testimony. (EXHIBIT 1) 143 SEN. SMITH: How many complaints in the last year?

146 MYERS: We are focusing in this area working with DMV. Initiated about 25 investigations maybe 12 to 15 complaints.

154 SEN. SMITH: Some haven't used a legal shipper for a long time? How do you communicate with shippers?

162 MYERS: They don't have to give us their records. Farmers haul under their farm plates.

173 SEN. SMITH: Regulations with regard to shippers who knowingly use illegal haulers.

177 MYERS: Explains what authority PUC has in that respect.

182 SEN. KINTIGH: In your testimony it says they would still have to comply with safety but you're saying it would be unsafe.

193 MYERS: We would not be able to inspect all of them to make sure they are safe.

200 SEN. KINTIGH: Do you have evidence to show that the more profitable the safer a truck is?

205 MYERS: No 207 SEN. KINTIGH: Asks why it is cheaper for Oregonians to ship loads out of state. 212 MYERS: Explains back haul situations. 232 SEN. KINTIGH: Asks about the Willamette Valley and feed lot in Ontario hauling figures? 238 MYERS: I'm not sure where those numbers came from. 242 SEN. LIM: Summer time or peak season can you increase authority for them to do that?

249 MYERS: We do have something in place. A real problem with who is being used.

263 SEN. LIM: Rates compared to other states; how much higher are we?

269 MYERS: I don't know that. It depends on the specific circumstances surrounding the haul. 281 MIKE MEREDITH, OTA: Opposes SB 1090. Submits written testimony. (EXHIBIT J) 319 SEN. KINTIGH: Are there other uses? 322 MEREDITH: I only represent livestock operators.

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327 JEFF STEVENSON, KNEE DIP CATTLE COMPANY: Testifies in support of SB 1090. -Discusses the safety issues in question. -Explains the steady decline in the cattle industry. 384 SEN. KINTIGH: What is the difference in the safety requirements of a Class A and Class B?

394 MYERS: Safety is no different. 402 CHAIR DUKES: Adjourns meeting at 5:10 p.m.

Submitted by,      Reviewed by, Shannon Gossack      Ruth Larson  
Assistant            Administrator

EXHIBIT LOG: A - SB 713-1 amendments, staff, 2 pas. B - SB 713 testimony  
Marvin Fjordbeck, 4 pas. C - SB 713-2, staff, 1 pg. D - SB 1055-1,  
staff, 1 pg. E - Background SB 10 - staff, 2 pas. F- Testimony Les  
Barlow, Polly Owen 1 pg. G - Testimony of Les Goodell, 2 pas. H -  
Testimony SB 1~Q Lee Reddington, 1 pg. I - Testimony on SB 1090, Norm  
Myers J - Testimony on SB 1090, Mike Meredith

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