

SENATE COMMITTEE ON TRANSPORTATION

May 24, 1993 Hearing Room C 3:00 p.m. Tapes 85 - 88

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 259 SB 98

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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 85, SIDE A

003 CHAIR DUKES: Calls meeting to order at 3:30 p.m.

006 LARSON: Reviews SB 98-1 through SB 98-16 amendments. (EXHIBITS A-M) and SB 98-18, 19 and 20 amendments. (EXHIBITS N,O,P)

WORK SESSION ON SB 98

043 CHAIR DUKES: Asks why SB 98-1 amendments are needed. (EXHIBIT A)
-One of the changes in SB 98 is getting rid of the highway engineer.

048 SEN. SMITH: Does SB 98-1 require the Director of ODOT to consult himself?

063 DON FORBES: There is a need for a senior engineer in the department as a technical expert but the highway engineer in the past has really been

the designated administrator of a division. The title got in the way of the function. The Director could sub-delegate things but not necessarily to the senior or head engineer.

070 CHAIR DUKES: We put the highway engineer on all kinds of committees and now it is going to be the Director or whomever you delegate to.

071 FORBES: This would allow us to put the highway engineer or the chief engineer down into a technical area where the title makes sense.

073 SEN. SMITH: I guess I don't understand why the language is

deleted in the original bill on page 20, lines 42 & 43 regarding "one member

appointment by Department of Transportation". Doesn't that do the same thing? I thought the SB 98-1 amendments would allow the Director to appoint someone from his department. Doesn't the printed bill already do that?

092 CHAIR DUKES: The beginning of the paragraph says, "the Advisory Committee which shall consist of ten members including the Director".

According to the SB 98-1 amendments you will be advising yourself.

098 SEN. SMITH: It seems like the printed bill does what you want already.

105 JOHN RIST, ODOT: Inserting the "Director of Transportation", on line 20 of SB 98-1 looks like it is a duplication.

106 SMITH: The printed bill deletes the highway engineer and adds one member appointed by the Director. The SB 98-1 amendments deletes highway

engineer and adds the Director and adds one member appointed by the Director. This is for the Director to delegate to someone. I think you can do that in the original bill.

118 CHAIR DUKES: You still get to appoint someone even yourself. It won't be the state highway engineer in the original bill. -The SB 98-9 amendments which keep the ATV and snowmobile things in ODOT would conflict with some things in the SB 98-1 amendments.

137 JANE CEASE, ODOT: Reason for the language change was to align language regarding the Director of Transportation and the Director of State Parks and Recreation Director and others or their delegates.

146 CHAIR DUKES: The language in original bill makes sense.

150 CEASE: Either way would work.

152 CHAIR DUKES: He would advise himself.

156 CEASE: You're correct.

165 SEN. SMITH: Is your intent to get more flexibility to appoint someone else not necessarily the highway engineer?

166 FORBES: Correct.

168 CHAIR DUKES: So we delete lines 2-4 of SB 98-1. (EXHIBIT A)

175 SEN. SMITH: Asks about section 80 of SB 98 and the intent.

181 JOAN ROBINSON: Explains that the State Speed Control Board is dealt with in another bill and perhaps is being abolished but I'm not sure

about

that. I always advise people that it's not a good idea to depend on another bill to do something that needs to be done in the bill you're dealing with. If the State Speed Control Board is in fact abolished it doesn't hurt you to keep the SB 98-1 amendments because the abolition would override them. If SB 98 passes by itself and you've taken out section 80, thinking the Board will be abolished, then you will end up with the state highway engineer back into the statute.

205 CEASE: I don't know the status of that issue, but whatever Legislative Counsels advice is would probably be the best.

207 ROBINSON: I would take lines 5, 6, and 7 out of SB 98-1 and leave section 80 in the bill.

215 CHAIR DUKES: Reviews page 56, line 23 of SB 98 regarding the ATV issue.

237 SEN. SMITH: Would the language require State Parks to consult with ODOT when designating parking locations?

240 CHAIR DUKES: This deals with the removal of snow by the State Parks and Recreation on winter recreation parking locations.

242 CEASE: Explains list outlining removal options.

248 LARSON: Clarifies what SB 98-10 amendments would change. (EXHIBIT J) -Some of this language assumes you haven't decided whether the snow

removal responsibilities stay or move to State Parks.

262 CHAIR DUKES: Lets skip to SB 98-9 amendments and make a policy decision before we do the rest of these. (EXHIBIT I) -This would leave the ATV and snowmobile stuff with ODOT.

270 LARSON: The SB 98-9 would remove the references in SB 98 to move the ATV, snowmobile and snow park issues to State Parks.

275 SEN. KINTIGH: I requested this amendment after the first meeting and I don't know if it is needed.

282 CHAIR DUKES: Discusses conversation she had with State Parks. -The people that belong to these organizations are not convinced this is the right thing to do. -Leave it with ODOT for the next two years and let State Parks work with those groups and prepare the way.

303 SEN. KINTIGH: I still wanted to keep the snow park and the snowmobile.

307 CHAIR DUKES: I think State Parks feel they would have something to offer the snowmobilers in two years. MOTION: Chair Dukes moves SB 98-9 amendments to SB 98.

VOTE: Hearing no objection the motion is adopted.

320 LARSON: I think we have negated the need for the SB 98-10 amendments which deals with the ATV accounts.

332 ROBINSON: SB 98-9 takes out pages 56-59 of the bill which would take care of the SB 98-1 amendments. Lines 8, 9 and 10 in SB 98-1 also are

out because that deals with who removes the snow.

342 CHAIR DUKES: There is no need for SB 98-1 amendments. -The SB 98-2 amendments were replaced by another amendment so we don't

need those. (EXHIBIT B) -I don't think the Committee wants SB 98-3 which would allow them to

appoint their own Committee members. (EXHIBIT C)

366 LARSON: Clarifies SB 98-4 amendments which deals with the move to Parks and I don't think it is needed anymore. (EXHIBIT D) -Explains SB 98-6 amendments which deals with ATV and contracts.

(EXHIBIT E)

385 SEN. SMITH: The SB 98-7 amendments changes the name of the building only. (EXHIBIT F)

MOTION: Senator T. Smith moves SB 98-7 amendments to SB 98.

VOTE: Hearing no objection the motion is adopted.

397 LARSON: You've already adopted the SB 98-9 amendments. (EXHIBIT G) -SB 98-10 deals with State Parks were they to get the snow removal

responsibilities, but if they're not moving then there isn't a need for these. (EXHIBIT H) -SB 98-11 deals with notifying the legislature concerning rules adopted by ODOT.

410 SEN. LIM: I just want to know what is going on when rules are made.

421 BILL ANHORN, ODOT: I'm not sure I understand your concern. If you want to be added to the list of who gets the changes we don't have a problem with that.

433 SEN. SMITH: I think you could get a commitment from them to get this information without a statutory change.

445 CHAIR DUKES: Aren't these changes in the Secretary of State's bulletin that we all get? -By the time we do know of the rules it's all been worked out. A lot of times it would be nice to be a part of that.

TAPE 86, SIDE A

044 LARSON: Legislative Counsel is on the list and regularly gets the rules.

050 CHAIR DUKES: So we won't need SB 98-11 amendments. (EXHIBIT I)

053 LARSON: Explains SB 98-12 which would add the emergency clause. (EXHIBIT J)

058 CEASE: It was having the reorganization and the budget start at the same time.

060 CHAIR DUKES: Considering you've already done the reorganization can't you make the budget work?

063 ANHORN: We've lined the budget up under the new organization which would change the way we do business from an authority standpoint. We could

still get along but would have to operate the way we do today.

068 SEN. SMITH: Do the other agency reorganization bill have emergencies on them?

072 ANHORN: Don't know.

075 SEN. KINTIGH: I think it would be reasonable for them to implement this at beginning of the fiscal year.

MOTION: Senator Kintigh moves SB 98-12 to SB 98.

VOTE: Hearing no objection the motion is adopted.

080 LARSON: SB 98-13 amendments relates to aeronautics and the appointment of an advisory committee.

MOTION: Senator Smith moves SB 98-13 amendments to SB 98.

090 SEN. KINTIGH: Will this have any effect on airports like the Aurora airport? 093 ANHORN: This won't change our authority or anything relating to the Aurora Airport.

102 BETSY JOHNSON: These amendments were put forward by the Aviation Alliance in an attempt to make sure the smaller agencies in ODOT get

representation.

VOTE: Hearing no objection the motion is adopted.

118 LARSON: The SB 98-14 amendments moves permits and weighmasters to PUC.

120 CHAIR DUKES: We already did this once but I wanted to make sure it goes.

MOTION: Chair Dukes moves SB 98-14 amendments to SB 98.

VOTE: Hearing no objection the motion is adopted.

130 LARSON: SB 98-16 amendments deal with the transportation safety issues. -The amendments also substitute traffic with transportation and

also the director is allowed to appoint deputy directors and assistant directors.

143 CHAIR DUKES: I would like to shift to the SB 98-19 amendments on page 61, line 2. (EXHIBIT O) -On page 3, line 14 of SB 98 there is a list of areas of critical

concern. -On line 17 it talks about aeronautics. -It gives to the Director of Transportation all of the responsibility

and authority that any division administrator has already had. -SB 98-19 amendments deal with delegating decision making back down to

the managers in areas of critical concern. -When I looked at the SB 98-16 amendments on lines 9-13 relating to

director and the authority to appoint deputy directors and assistant

directors as opposed to going through the legislative process it seemed we were moving all the authority up to the Director of Transportation.

200 SEN. SMITH: I like SB 98-19 amendments because it doesn't concentrate the authority all at the top. -I will not support SB 98-16 amendments.

216 SEN. WEBBER: I agree with Senator Smith. Why did you leave out the financial part? Ultimately that is really where the power is.

220 CHAIR DUKES: I guess it's kind of a compromise. -Issue of the Director of Transportation authority over fiscal matters. -Agency asked not to have the divisions anymore so that everyone worked for the Department of Transportation and that they could flexibly move

people back and forth. This allows them to do both of those things but still gives some authority to managers.

256 ANHORN: We were doing SB 98-16 amendments for the same reason you did the SB 98-19 amendments.

265 CHAIR DUKES: Somewhere we do control the Deputy Director either by statute or budget and what you're doing is removing both. The budget is so general.

276 ANHORN: We weren't trying to circumvent the process. I don't understand your concern.

278 CHAIR DUKES: I was confused with your budget in regard to the Motor Vehicle Division.

294 ANHORN: We had intended that DMV become a branch and then under the business function part would be with the Deputy Director.

305 CHAIR DUKES: Concerned about inconsistency between SB 98-16 and SB 98-19.

312 ROBINSON: Explains legal consistency with SB 98-16 and SB 98-19 amendments.

326 SEN. SMITH: Why don't we delete the first line in subsection 5?

343 ROBINSON: In section 3, lines 38 and 39 of the original bill deletes the language relating to Deputy Directors.

347 SEN. SMITH: I seem to recall testimony from the department saying they were doing this on purpose. They were deleting all the references and

statutes to deputies and administrators and all that and replacing it with director.

355 CEASE: The director would be where the buck stops.

361 SEN. SMITH: If the concern is the ability to delegate back down the chain to the managers then they could do that with the second sentence

in subsection 5 of the bill. I thought any agency could delegate responsibility within the agency.

369 ROBINSON: I had a conversation with the DMV Assistant Attorney General who convinced me that their comfort level would rise if this specific

delegation of authority were put in. The Director is given broad authority here to organize and reorganize. If you take out the first sentence in subsection 5 you would be talking about a deputy assistant without even having one.

MOTION: Chair Dukes moves SB 98-19 amendments to SB 98.

VOTE: Hearing no objection the motion is adopted.

387 SEN. YIH: Will all of the advisory committees within the divisions be in tact after SB 98?

391 CHAIR DUKES: They will remain. In fact I think it adds aeronautics. -The other part of the SB 98-16 amendments deal with the transportation safety issue. -When we moved Traffic Safety over to ODOT we talked about incorporating as much into that as possible so we only had one safety group in ODOT

instead of three. We haven't had very much success in that area. The SB 98-16 amendments would get us there

420 LARSON: Outlines where the changes would be made from traffic safety to transportation safety in SB 98.

451 CHAIR DUKES: The SB 98-16 amendments would move us toward one area of safety. -Asks about list she gave to the Director of Transportation.

470 CEASE: Current direction in statute regarding motorcycle safety. Under SB 98 it would be to the Director and the department. Then we would put it to transportation safety.

488 CHAIR DUKES: Is SB 98 written in such a way that anything in the statutes that is given to a division automatically goes to the Director?

494 ROBINSON: We will be able to substitute the word "department" for the word "division", and the word "director" for the word "administrator".

502 CHAIR DUKES: Authorizing helmet models or makes for motorcycles would go from DMV to the Department of Transportation.

TAPE 85, SIDE B

035 CEASE: The Director wants to move that to "transportation safety".

037 CHAIR DUKES: My concern was regarding the ORS saying it should go somewhere else.

040 SEN. SMITH: Everything with the exception of lines 8-13 of SB 98-16 deals with creating the "transportation safety section"?

MOTION: Senator Smith moves SB 98-16 amendments with lines 8-13 deleted to SB 98.

VOTE: Hearing no objection the motion is adopted.

063 ROBINSON: A statute that was amended in the bill gets repealed and a statute that was omitted from the bill gets repealed ORS 184. 715 should have been repealed initially and was missed. ORS 276.552 relates to the highway building.

072 LARSON: The SB 98-18 amendments deal with the Maritime Pilots and adds them to ODOT responsibilities. (EXHIBIT N)

086 CHAIR DUKES: When we were looking at SB 259 we thought that ODOT would be able to help the board do what we are asking of them. I thought it

would be better to leave them with ODOT and have some availability or assistance from you. I'm not sure where they would go if they weren't with you.

MOTION: Chair Dukes moves SB 98-18 amendments to SB 98.

104 LARSON: There is a reference to the Board of Maritime Pilots being an independent agency under ODOT in their statutes.

107 ROBINSON: It's very strange to see a board that is an independent agency within a department. I don't know what it means. This amendment doesn't do anything to that language and doesn't change it. It's ORS 776.105.

That relationship isn't changed in SB 259 either.

116 CHAIR DUKES: They are part of ODOT funding.

118 ROBINSON: It states in that statute that the authority of the Transportation Commission does not apply to the Board of Maritime

Pilots.

125 SEN. LIM: Why do we want to put them under ODOT?

127 CHAIR DUKES: That is where they have been and my concern is that the Board of Maritime Pilots is going to need some assistance in

accomplishing some of the things we are asking them to do with SB 259.

147 SEN. KINTIGH: Is this illegal?

150 ROBINSON: It's not unconstitutional and if the legislature passes the law then it is legal. 154 CHAIR DUKES: It is odd.

157 SEN. WEBBER: Maybe if ODOT had control over hiring that would bring them closer in.

160 CHAIR DUKES: You could give ODOT authority over personnel.

162 SEN. LIM: Could we put them under the Port of Portland?

164 CHAIR DUKES: No, Senator we couldn't.

174 SEN. WEBBER: Discusses the issue of getting all modes of transportation in one area. -It seems that there are a lot of constraints on staff. -Suggests inserting somewhere in concept, that ODOT hires the other

directors for the areas of critical concern.

192 ROBINSON: Would the Board of Maritime Pilots become an area of critical concern?

195 SEN. WEBBER: The manager would be responsible for the day to day operations but appointed by the director.

200 ROBINSON: I think that would require amending the statute that makes them an independent agencies within ODOT. -Explains which statutes would need to be amended if Senator's Webber

language were adopted.

227 SEN. BUNN: If we changed it to an area of critical concern would we be required to confirm the appointments to the board?

229 ROBINSON: Right now they aren't subject to Senate confirmation.

241 CHAIR DUKES: Could we amend the confirmation statutes in this bill?

245 ROBINSON: Yes, because you're moving ATV's out and then once they were out trying to make substantive changes. Here the Maritime Pilots are

already in ODOT and you're making them more a part of it.

250 CHAIR DUKES: So your motion is to make them an area of critical concern. -Senator Bunn is suggesting that the confirmation be a friendly

amendment.

275 SEN. KINTIGH: I object.

276 SEN. LIM: What are areas of critical concern?

278 CHAIR DUKES: There is a list of critical concerns which basically are the areas that used to be divisions. Reads list.

292 SEN. BUNN: I think the Board of Maritime Pilots has demonstrated a need for oversight and this adds accountability. Particularly in the area of affirmative action

303 SEN. YIH: Is the Maritime Pilots an area of critical concern? We do have control over their budget and we have influence over their policies and I don't know if there is a need for more control or not.

315 CHAIR DUKES: Their budget is a part of ODOT.

324 SEN. SMITH: We have had difficulty with the Maritime Board in the last two years. If we had not had those problems I too would feel this

unnecessary. -Discusses issue of more resources, not necessarily fiscal resources.

333 IRV POTTER, BOARD MEMBER OF MARITIME PILOTS: I'm not sure what "critical concerns" means. -Current statute authority in regard to Transportation representation. -I've only been a member for the last year. -I don't think the committee would mind not having the personnel

responsibilities.

394 CHAIR DUKES: How would you feel about a closer relationship with ODOT?

398 POTTER: I don't have enough experience. It's all new to me.

408 CHAIR DUKES: We would like to have the board members here for our meetings.

417 SEN. BUNN: Were there discussions with you about affirmative action before you were appointed to the Board?

422 POTTER: Not specific discussion with anyone. I feel that my views on those topics were well known.

430 SEN. BUNN: Were you aware of the controversy concerning the lack of women and minorities serving as pilots?

433 POTTER: I was not aware of that issue.

438 SEN. WEBBER: Discusses problems with smaller agencies and the issue

of a non-voting board members.

MOTION: Senator Webber moves to amend SB 98-18 amendments to include the Board of Maritime Pilots as an area of critical concern and to make the Board subject to Senate confirmation.

VOTE: In a roll call vote the motion carries with Senators J. Bunn, T.

Smith, Webber, Dukes voting AYE and Senators Yih, Kintigh and Lim voting NAY.

MOTION: Chair Dukes moves to adopt SB 98-18, as amended, to SB 98.

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

voting NAY.

TAPE 86, SIDE B

058 LARSON: The -20 amendments would substitute "transportation" for "highway" when referring to safety.

MOTION: Chair Dukes moves SB 98-20 amendments to SB 98.

VOTE: Hearing no objection the motion is adopted.

MOTION: Senator T. Smith moves SB 98, as amended, to Trade and Economic Development with a "DO PASS" recommendation.

VOTE: In a roll call vote the motion carries with Senators J. Bunn,

T. Smith, Kintigh, Lim, Webber, Yih and Dukes voting AYE.

WORK SESSION ON SB 259:

117 LARSON: Submits and review SB 259-7 and SB 259-8 amendments. (EXHIBIT Q AND R) -Discusses letters that Committee Staff received from Maritime Pilots

and Board members regarding SB 259-7 amendments.

137 CHAIR DUKES: SB 259 came into existence because Legislative Counsel realized that our statutes were very old and didn't make a lot of sense. -Reviews SB 259-1 amendment. (EXHIBIT Q)

MOTION: Senator J. Bunn moves SB 259-1 amendments to SB 259.

174 SUE HANNA, LEGISLATIVE COUNSEL: This amendment was done so that it was clear that if an investigation was underway that it would not prevent

someone from having an application automatically renewed. Action would be taken after a disposition of the investigation.

VOTE: Hearing no objection the motion is adopted.

197 HANNA: The SB 259-2 amendments were an effort to generate discussion. (EXHIBIT R)

212 CHAIR DUKES: The Committee wants to move along with this in terms of affirmative action. -Testimony for the record from Captain Chuck Patching. (EXHIBIT S)

225 SEN. BUNN: It seems like the SB 259-7 amendments would be a good place to begin and then identify the differences that we have. (EXHIBIT T) -Discusses issues contained in the SB 259-7 amendments. -Asks for clarification regarding who does the training and who is allowed to be trained.

MOTION: Senator J. Bunn moves SB 259-7 amendments to SB 259.

260 CHAIR DUKES: It isn't my intent to do any of you any damage. I realize we are all lay people sitting here and I think the Committee wants to

move in a particular direction and I'd like to make sure that when we're all finished the Board of Maritime Pilots can still license trainees and pilots or somebody can train those people. There may be a difference of opinion on who does the training but we can still end up with safe, licensed river and bar pilots.

268 SEN. BUNN: In SB 259-7 amendments, page 5, line 8, if we were to change that so that it said "the Board shall license all pilotage organizations on each pilotage grounds". That would eliminate some of the turf

battles? -Refers to information he received about the fact that this is a private business and the stock purchase requirements. The logical step to me is if you are qualified to operate that association, then you should do the training. Not necessarily a particular pilot but an association.

290 CHAIR DUKES: Right now the associations do the training?

292 SEN. BUNN: But not all of the associations can do the training.

293 CHAIR DUKES: Yes they can. Right now the Board requires that trainees train with six different pilots. Am I correct?

297 CHUCK PATCHING, COLUMBIA RIVER PILOTS: Rules state that a trainee must have confirmation from at least six pilots that say he is ready to move on.

306 SEN. BUNN: Does that allow all organizations to train?

308 PATCHING: Every organization can train.

309 CHAIR DUKES: What you have is one organization that only has two members so they cannot begin and complete that training within the membership of their own organization. They must rely on training from another

organization.

315 SEN. BUNN: That is a Board rule rather than a statutory rule. At least on line 8, I would prefer to say in statute "each organization can be

licensed to train".

320 CHAIR DUKES: So you would have a licensed pilot who had trained under two pilots?

323 SEN. BUNN: Why do you need six people to train?

330 HANNA: I see that I didn't write what I wanted to when I was doing this. I was aware of the situation on the river where we have two pilot

organizations and one with only two pilots and the requirement in the rule for six pilots. I don't want to say that every organization shall be licensed to train pilots. What would happen if you had an organization of one pilot who is having difficulties and the Board doesn't want that pilot to train anymore. Maybe we should say every organization is "eligible". -Suggests inserting requirement that each pilot will train under every

organization on the river. So that you have flexibility and a person isn't trained only by a specific organization. -I do not mean to license a pilot organization for all functioning. Only that it gets a license to train pilots. So that the license can be

removed if you have inappropriate training. You do not want to have an organization training when the Board considers there is inappropriate

training. So you want them "eligible". 360 JODY FISHER, LEWIS AND CLARK: Currently under rule only the Columbia River Pilots Association can train pilots which means when we need a

pilot trainee we must request that the Columbia River Pilots train that trainee. -Discusses history of reluctance to train. -Concerned about setting up pilot organization for the gatekeeper to who gets trained unless there is some requirement that they train our pilot trainees.

375 CHAIR DUKES: At this point the Committee has talked about vesting more authority in the Board and they select the trainees and then oversee the training. How do you feel about that?

388 FISHER: That would be helpful but I'm not sure what assurances we would have. It has taken a court order to get this done currently. We would

prefer that the training requirement and responsibility follow each

pilot as a requirement of licensing. The Board can then set-up some kind of training requirements, but it doesn't set up a pilot organization as the gatekeeper of training on any specific pilotage ground.

410 CHAIR DUKES: When we are done I don't expect that the pilot organizations will have any trainees. I expect that the Board will have trainees and the pilot organization will get to do the training.

417 IRV POTTER, BOARD OF MARITIME PILOTS: I think the Board interpreted this to mean that we would determine whether a trainee is qualified to be a

trainee and then assign that trainee to a pilot organization for training. If a pilot organization refused to accept an assigned trainee then the Board would perhaps determine that organization was no longer suitable for training and find someone who was.

438 CHAIR DUKES: What has happened in the past is that an organization brings forward a trainee to replace a vacancy in their organization.

These are private organizations and have no direct relationship to the state. The changes we're looking at would make the Board responsible for the screening and deciding who the trainees are and then they would be trained. There is no state requirement that they join any of your organizations.

449 POTTER: The training organization may or may not be an existing piloting organization. The only requirements are that it has a member who is a

pilot and meets other requirements.

477 PATCHING: The Columbia River Pilots are not under a court order to do training for Lewis & Clark. We have an agreement with them to provide

training and we have done so.

488 CHAIR DUKES: I think the two organizations need to work that out.

493 PATCHING: Explains why a trainee should train with more than two pilots.

TAPE 87, SIDE A

042 SEN. BUNN: Do the Columbia Pilots cover the same area as the Lewis & Clark pilots?

046 PATCHING: Both organizations have pilots who are licensed for the Columbia/Willamette River Pilotage Ground. 050 SEN. BUNN: But as far as typical operation do they overlap?

051 PATCHING: Typically the Lewis & Clark pilots service the Peavey Dock and the Columbia River pilots service all the other facilities on the river.

054 SEN. BUNN: Would it seem reasonable to say that at least one

must be from another organization or at least one from another organization so

that you get the variety that you're talking about?

060 PATCHING: The Columbia River Pilots provide all the variety that is necessary to train a pilot. We take a ship of a 40' draft from Portland to Astoria, it covers the whole route and goes in and out of all docks

except Peavey.

063 SEN. BUNN: Any hostility from your members doing the training toward the trainees of the other organization?

065 PATCHING: I don't believe there is any hostility. It certainly has worked out better than I ever thought it would. I talked with the

trainee for Lewis & Clark pilots and he has been pleased with his treatment.

071 SEN. BUNN: Does it seem like any kind of a problem that that person is now a stockholder in Saddle Mountain?

072 CHAIR DUKES: That's the bar pilots. -Clarifies the different pilotage organizations.

079 SEN. SMITH: Senator Bunn is referring to a letter we received from the President of the Columbia River Bar Pilots which talked about

requirements to buy stock costing about \$125,000.00. Does your pilot association have that same requirement of its members?

083 PATCHING: No.

086 SEN. SMITH: Is that typical or not?

089 CAPTAIN GORDON HOWE, LEWIS & CLARK PILOT: We do go up and down the whole river not just into Peavey. Whenever we can get a job at other docks

then we do go the whole course of the river.

098 PAUL JACKSON, COLUMBIA RIVER BAR PILOT: The stock issue is common. -Explains the advantage of the system for bar pilots in regard to

purchasing of stock.

110 CHAIR DUKES: None of that is statutory or required by state law that is in your association.

113 STEVE SWEEP, COOS BAY/YAQUINA BAY PILOT: We don't have stock requirements.

122 SEN. BUNN: I like what we were hearing from Legislative

Counsel regarding every organization being eligible for training. Also that each trainee should train in all of the organizations. I am concerned that

there is a business that has the ability to shut-out their competition. As long as everyone has an equal opportunity to train that's fine. If not, we need to figure out how to make it happen.

132 CHAIR DUKES: I don't think anyone has succeeded in shutting anyone out yet. What does this do to Coos Bay?

134 SWEEP: It's impossible for me to train a Columbia River Bar pilot my expertise is in Coos Bay.

138 SEN. SMITH: Is Coos Bay in the same pilotage ground as Columbia River bar?

141 HANNA: I suggested that a pilot train trainees on the pilotage ground for which they are licensed. I gave Senator Bunn a list of the four

pilotage grounds and they don't interchange at all because the skills are so different. There is the bar, the river, and the two bays. The only place there are two pilot organizations is on the river. That is where we would have the focus. A pilot under this suggestion would train with each of those organizations, but I did not intend to imply crossing pilotage grounds at all.

150 CHAIR DUKES: I asked for SB 259 originally to clean up the statutes. When we held the first hearing it was very clear the Committee wanted to insert some affirmative action into this and I'm happy to do that. I got to carry the bill last session and the one thing I swore was I wouldn't do it again. These folks have a precarious balance they have worked out over the last two years, as to how they do what they do. All I know is

as a result of that we have safe, competent, well trained pilots on the river. Now whether we have them from a broad enough background is an entirely different issue. I would be happy to entertain that issue.

164 SEN. BUNN: Asks for clarification regarding page 4, SB 259-7 amendments regarding training.

180 CHAIR DUKES: I think Mr. Potter gave us a good direction there. -Clarifies Mr. Potter's response regarding interpretation of SB 259-7 amendments.

191 POTTER: I see this for organizations that seek a license to train pilots. Right now we do not regulate the pilot organizations we regulate pilots. This bill says that a pilot organization can be licensed to

train pilots. My view is that if they came to us and said we want to be licensed to train pilots that in return for the license we would have

the ability to say, yes, but on the condition that you train the pilots we assign to you.

203 SEN. BUNN: I would like it part of the record that part of the expected result of obtaining the license to train, is that you train those

assigned to you.

206 CHAIR DUKES: I don't have a problem with that. I would be real disappointed if the Board assigned a trainee to someone, whom the Board was licensing to train, and then they wouldn't train the person.

220 PATCHING: The criteria for becoming a training organization would be established by the Board?

223 CHAIR DUKES: Correct. -I am hopeful that the Board will establish a screening committee that

will include the different pilotage groups in the area.

246 SEN. BUNN: Concerned about getting too subjective regarding criteria.

251 CHAIR DUKES: I'm trying to open up the areas from which people can come.

255 SEN. WEBBER: Asks about the testing/training issue.

272 HANNA: Currently a person is located and then the test given. -Explains what SB 259-7 amendments would require in regard to testing. -Concerned about having an unconstitutional delegation of authority in our existing statutes to private organizations to carry out public duties. I think allowing the organization to select the trainees has significant problems. The Board has not had a choice in this.

311 CHAIR DUKES: Is there a problem with Board licensing organizations to train?

312 HANNA: No problem with that.

317 SEN. SMITH: Do the SB 259-7 amendments allow anyone to take the test?

322 CINDY HUNT, LEGISLATIVE COUNSEL: SB 259-7 amendments require a person to take the test. SB 259-8 amendments relate to federal requirements.

(EXHIBIT U)

334 SEN. BUNN: Don't you have to be allowed to take the test to become a trainee under SB 259-7 amendments and SB 259-8 you have to be allowed to take the test if you've got your license from the U.S. Coast Guard.

340 HUNT: You might want to compare page 4 of SB 259-7 and SB 259-8.

352 SEN. BUNN: Under the SB 259-7 how do you get to become a person who takes the test?

358 HUNT: I believe you would apply to the Board stating that you had the other federal license and then the Board would require the exam. I

believe the Board would also decide who was qualified to take the exam.

375 HANNA: On page 4, line 16 of SB 259-7 amendments outlines the "other educational and experience requirements of the board".

381 SEN. BUNN: If 30 people came to the door and 15 met all of the requirements is there a way they could take the list of 15 and select 3 of them.

388 HANNA: It would depend on the rules of the Board.

401 CHAIR DUKES: I have had numerous conversations with folks regarding this and one thing I hadn't thought of is that right now it takes about 18

months and it is until someone dies or retires that a slot comes open for training. What we are opening up is an area where people have different kinds of or less experience and we want to move them into a training system and if a couple of people die we may have vacancies that need to be filled rather quickly. I'm hoping that the Board will move some of these people in where there are not slots. It may make some sense to allow them to do some screening.

438 SEN. BUNN: How do the SB 259-8 amendments work as far as who can take the test?

445 HUNT: Explains the requirements outlined in SB 259-8 amendments.

459 SEN. BUNN: Could the Board take a pass/fail and ignore the level of passing scores?

462 HUNT: They could but that would be left up to the action of the Board.

464 SEN. BUNN: The SB 98-7 amendments just screen earlier than the SB 98-8 amendments.

468 CHAIR DUKE: What about someone who doesn't do well on tests or someone who does very well on tests but not very well in practical application?

471 HUNT: Clarifies SB 259-8 amendments on page 4, line 23, subsection 3 relating to passing scores.

TAPE 88, SIDE A

032 SEN. SMITH: It could be a combination of a score from a

written and other experience which would be established by rule?

033 HUNT: Correct. -Explains provision for the Board to establish other educational

criteria.

040 HANNA: We have actually updated the SB 98-7 and SB 98-8 amendments.

053 CHAIR DUKES: We are turning this over to the Board so what makes sense to you?

060 POTTER: Concerned about SB 259-8 amendments because it doesn't reflect the reality of the river.

061 CHAIR DUKES: What makes sense for legislative or statutory authority to give to you?

063 POTTER: Our statutory mandate is to limit the number of pilots. It would be terrible to have 10 people pass the test and have them go into

training with no knowledge that there will be a job available for them one year, five years or ten years from now.

074 SEN. SMITH: It seems the Board would have the ability to license pilots with the best all around experience after the training, rather than

determining at the beginning who will be the best pilot.

079 POTTER: Someone is going to pay the cost of that trainee and there would be no assurance of becoming a pilot and being able to earn a living.

089 PATCHING: The only way the Board could weed people out would be through education. I see the person who doesn't have a huge formal education

but a lot of river knowledge. It looks like that wouldn't count for anything.

099 POTTER: If five years down the road a pilot slot becomes available, there is no statutory authority for the Board to have the ability to

determine which of the trainees gets that slot.

109 SEN. SMITH: How do you decide who gets the job under SB 98-7 amendments?

113 HUNT: Once they have completed their training they would take another exam.

121 SEN. SMITH: It would be at the discretion of the Board to adopt rules to determine that.

123 POTTER: At some point we have to decide how many trainees are appropriate on the river. In SB 259-8 there is no mechanism deciding how many trainees we should have.

130 CHAIR DUKES: I would like to get back to where we were the last time we heard this bill and that was the concern about the fact that there was

such a narrow area by which one can become a trainee.

150 HANNA: On page 5 of SB 259-7 it outlines the experience issue. -Reviews SB 259-7 amendments regarding Board authority.

181 MARTY SMITH, U.S. COAST GUARD: I think that the language that doesn't require experience on any particular pilotage ground will limit the

number of pilots that could qualify under federal regulations. To be recognized as a pilot of a vessel of that tonnage or less there are day and night trip requirements. To eliminate those requirements for a state pilot would make them ineligible for their federal license.

191 HANNA: I don't think that is necessarily the conclusion I would come to. They can meet any federal license requirements but don't have additional licensing requirements of the board. They would still be required to

meet all of their federal licensing requirements. We are simply focusing on the authority of the Board.

198 CHAIR DUKES: What if we took the language regarding the experience and the pilotage grounds and insert some language that talked about drawing trainees from as broad an area as possible. Make it clear that we want

them drawn from a lot of areas.

207 HANNA: Suggests removing the section on pilotage grounds and focus on broad based experience, but narrow that experience to the relevant area. -Suggests conceptual language to section 22, subsection b of SB 259-7

amendments. -I would focus it down to the kind of area we are looking at, I wouldn't want to leave it broad.

232 CHAIR DUKES: We are talking about navigational type skills.

236 PATCHING: Suggests that experience is critical. -On page 4, SB 259-7 it says the Board shall not require the trainees to have additional experience.

244 CHAIR DUKES: She is nodding. We can correct that. 247 SWEEP: Discusses his personal experience serving on the Board of Maritime Pilots. -Explains the federal requirements for licensing. 265 CHAIR DUKES: Explains the request by legislature two years ago and no action was ever taken.

292 SWEEP: Discusses personal experience with different pilotage grounds.

300 CHAIR DUKES: Would you be qualified to train a person on the Columbia River?

317 SWEEP: I would need to follow all the criteria set up now. I would need to start with the tugs, so I guess the answer would be no.

323 SMITH: Captain Sweep would still need his federal endorsements for the Columbia River to meet the state requirements.

328 CHAIR DUKES: So indeed he wouldn't qualify yet. -I want to wrap this up.

338 PATCHING: I think I made the statement regarding the experience. The average experience is 16 years, not everyone has that much. I think it

was taken out of context before. -Explains scholarship program the Board has set up and there is an

individual now participating in the program.

359 SMITH: Expresses concern regarding the issue of vessel tonnage and the limited requirement.

391 HANNA: That is based on the rules in Washington State. Ours are in feet rather than tonnage. It could be changed to suit Oregon conditions. We

are not talking about someone who is going to be going out the next day and bringing a ship across the bar. This is someone starting at the

lowest level with the smallest ships to train.

415 POTTER: The most helpful for us would be the funding and direction for someone to help us write an affirmative action plan and the right to

designate trainees to training organizations. -I'm concerned about minimum standards micro-managed at the legislative level. I'm not comfortable deciding what are minimum standards for

different pilotage grounds. I would prefer to leave the establishment of minimum standards to the rule making process of the Board.

466 CHAIR DUKES: I agree with what you're saying but the difficulty has been the lack of trust. I'd be happy to say, "master of inland stream or

motor vessels", and leave it at that.

482 POTTER: My preference would be to see the minimum standards deleted from the statute and put into the rulemaking process. I don't think we have

misinterpreted what you want. I would take out the maximum requirements to be a pilot and have the Board set those standards at appropriate

levels for the various pilotage grounds. I feel it's inappropriate at

the legislative level to set maximum standards.

TAPE 87, SIDE B

035 SEN. BUNN: The Board already has the ability to do the screening on those who are going to take the test. We don't need to duplicate that. 037 POTTER: The statute says we can't impose any greater experience requirements than are set in the statute.

040 SEN. BUNN: You could go through, when you've got too many people set to take the test, and select those allowed to take the test.

041 POTTER: I'm not sure that is what the statute says, in fact, I think the statute would not allow us to consider other experience factors.

044 CHAIR DUKES: What is not currently required?

046 POTTER: Only requirements are the endorsing requirements in the statute.

050 CHAIR DUKES: So a U.S. Government license, Master of the Ocean or Coastal Stream and Master of Inland Stream licenses are currently

required?

053 POTTER: Reviews current statute.

056 KEVIN DAVIS, COLUMBIA RIVER PILOTS: (inaudible) something about the Board license requirements.

064 CHAIR DUKES: We've got Master of Ocean or near Coastal Stream and Master of Inland stream or motor vessels.

065 DAVIS: You've eliminated the actual experience requirements.

067 SEN. SMITH: It sounds like the Board can establish additional experience requirements under subsection d, page 4 of SB 259-7.

071 HANNA: There is a conflict in the amendments that needs to be cleaned up. I'm going to take it from the general tone of the conversation that you want the Board to have some discretion in this area. Is that

correct? That's what I need to know. We need to clean up the SB 259-7 amendments.

077 CHAIR DUKES: If we give you some direction can you bring something back on Wednesday?

079 HANNA: I need to know if the Board has discretion to set experience and does the Board have the discretion to set education?

081 SEN. SMITH: I don't have a problem giving the Board discretion as long as they don't put us back to where we are right now.

085 HANNA: I've been asked to repeal the Board's rules on the

pilotage ground which is unconstitutional. You cannot amend Executive Branch

rules so I created the section regarding the experience.

093 CHAIR DUKES: We will say that they will establish rules for a combination of educational and experience to bring a broad base of

navigational experience.

095 HANNA: Do you want to eliminate the part regarding no experience on the pilotage ground? Those rules stay in the discretion of the Board unless that language is in there.

097 SEN. BUNN: That has been the language that has been the biggest obstacle to affirmative action.

101 CHAIR DUKES: Is there anything else you can draw from other than the tow boats?

103 POTTER: I don't know whether the experience requirement has been selected based on historical experience or if anyone has started from a pilot and worked backwards. That would be an exercise accomplished as

part of the affirmative action plan. I don't know if there's another experience but I also don't know if it has ever been analyzed.

115 SEN. BUNN: I don't know this business but I don't understand why a person wouldn't be able to qualify to train if they had this kind of

background.

120 HOWE: Clarifies that the trainee will be piloting as they train. -I would like it if all of the organizations or pilots could train.

143 SMITH: Are the trainers to be paid?

144 CHAIR DUKES: There isn't anything in the amendment that would speak to that. -SB 259-7 amendments have some questions on page 4, lines 24 and 25

regarding trainee experience. I would like to give the Board a little more leeway. I have some concerns because of the past.

156 SEN. SMITH: I'm not comfortable giving it all back to the Board. They've had 100 years to do this and haven't done it yet.

158 HANNA: First you want to give the Board discretion authority over standards and experience and then second, you want to get rid of the tow boat captain thing. -Suggests saying, "the Board shall set experience requirements

.....(inaudible)..... I don't know if that will help. It's that two year captain experience that takes all the years to get in. You could

still require other experience on towing vessels. I don't know how focused you want me to be on repealing this rule.

176 CHAIR DUKES: The language regarding the broad base of navigational experience wouldn't do it?

180 HANNA: It doesn't repeal this rule.

184 CHAIR DUKES: The way it's drafted will you still be able to license pilots?

187 POTTER: It would be impossible because of the mutually exclusive paragraphs so that needs to be changed.

188 CHAIR DUKES: What if that's worked out?

190 POTTER: We could license pilots under either direction. I don't know if it moves us towards solving your other concerns.

198 CHAIR DUKES: Someone has raised the issue of deleting "economic" in SB 259-7 amendments on page 3, line 25.

206 POTTER: Discusses rate hearings in regard to conditions that change.

218 SEN. SMITH: Retiree seems to be an economic factor.

225 POTTER: The PUC hearings officer was to the contrary. -I was comfortable before but based on the recent ruling I would like to see it out.

236 SEN. SMITH: Suggests replacing language with something that reflects the cost of providing the service.

243 POTTER: Explains the Board's power in regard to setting tariffs and the rate formula.

250 CHAIR DUKES: Sue Hanna is going to go back and work the language on page 5, lines 20 and 21 of SB 259-7.

255 HANNA: I'll makes pages 4 and 5 of SB 259-7 consistent.

271 SEN. BUNN: Isn't that the language regarding affirmative action? I would oppose that unless we figure out another way around that.

278 HANNA: This is a drafting technicality. I would rather put "meets other educational and experience requirements of the Board", in lines 16 page 4 of SB 259-9 and put "experience" back in if you're wanting to take out the prohibition in lines 24 and 25 of page 4. -Section 22 of SB 259-9 amendments will go away.

295 CHAIR DUKES: By then they will have rules in place and we will want some authority for those. We have already set out what the minimum

requirements are in those.

300 SEN. SMITH: My concern is by deleting subsection 4 and

putting the language back in on line 16 it puts us right back where we are.

307 CHAIR DUKES: My concern is we don't know enough about (inaudible) -Mr. Potter has convinced me that they need some flexibility.

329 POTTER: On page 5, lines 19-21, perhaps the language could also reflect the direction that those be consistent an affirmative action plan.

359 HANNA: I could cross-reference with ORS 776.300.

367 CHAIR DUKES: That would reflect our discussion in that the Board should set a combination of experience and education standards for a trainee

and in doing so that they meet the affirmative action goals they are

charged with. 371 SEN. SMITH: Can you rework section 22, subsection b, so that you could prevent the Board from adopting standards that would hamper the

affirmative action plan?

378 HANNA: I think I could link it back to the subsection 1a of that section. I'll do it by cross referencing.

MOTION: Chair Dukes moves to amend SB 259-9 amendments in line 19, page 5 of SB 259-9 amendments, "in carrying out 776.300; which is the application process, and adding the words, "and paragraph a, of subsection 1 of this section". So we are bringing the affirmative action into subsection b and also have the language requiring the broad base of navigational experience and then deletes the "do not require experience on any particular pilotage ground".

VOTE: Hearing no objection the motion is adopted.

411 FISHER: Asks for clarification under SB 259-9 amendments regarding new trainees.

420 CHAIR DUKES: If the Board determines need, then they would request applicants, test those applicants and then license one or more for

training.

432 FISHER: Concerned that the Board would preclude Lewis & Clark.

435 CHAIR DUKES: Clarifies what the Board of Maritime Pilots should be concerned about.

455 FISHER: The Board could put Lewis & Clark out of business.

460 CHAIR DUKES: Or any other group.

465 SEN. WEBBER: Discusses the issue of control over the Board.
-Suggests a one year budget and then review rules when developed.

487 CHAIR DUKES: There are time lines outlined in here. No later than July 21, 1994, with the rule making, recruitment and training. Have to have

rules implemented by December 31, 1994.

TAPE 88, SIDE B

048 SEN. SMITH: If we adopt the amendments can we broaden the requirements in section 22, subsection 2 on page 5 of SB 259-9 amendments regarding

the rulemaking.

059 CHAIR DUKES: Discusses a state board trying to put someone out of business.

MOTION: Chair Dukes moves that on page 4, line 16, SB 259-9; after "other" insert "experience and".

VOTE: Hearing no objection the motion is adopted.

080 HANNA: Asks for clarification on page 3, lines 25 regarding "economic".

083 SEN. SMITH: I don't want it unless we get a better word.

087 POTTER: I'm not sure there is a better word.

090 HANNA: The Board has the authority to adopt rules. They can go out and adopt a rule on what economic means in this statute and the hearings

officer will be bound by it.

MOTION: Chair Dukes moves to amend section 22, line 19 of SB 259-9 amendments which would reference subsections 1a above, so that it is folding in the affirmative action language into the combinations of education and experience standards for trainee applicants that the Board is going to write. Also bring in "broad based and navigational".

VOTE: Hearing no objection the motion is adopted.

MOTION: Senator Smith moves to amend page 3, line 25 of SB 259-9 amendments to restore the word "economic".

VOTE: Hearing no objection the motion is adopted.

MOTION: Chair Dukes moves SB 259-9 amendments, as amended, to SB 259 .

VOTE: Hearing no objection the motion is adopted.

MOTION: Chair Duker moves SB 259, as amended, to the floor with a "DO PASS" recommendation.

129 SEN. BUNN: I'm not pleased with the changes we just made. On page 5 of SB 259-9 amendments we eliminated the wording regarding the experience

on pilotage grounds. We have a poor track record with this group and it's not unreasonable for us to take action.

140 SEN. SMITH: I would like to see the rules the Board comes up with. -Disappointment in the lack of participation by other Board members.

160 CHAIR DUKER: Sometimes from this position we get met with resistance. -Submits letter from Mr. Cunningham. (EXHIBIT W)

174 HANNA: Explains that Legislative Counsel will review the rules from the Board.

189 CHAIR DUKER: We want you to do this without putting anyone out business or putting someone unsafe on the river.

VOTE: In a roll call vote the motion carries unanimously. Chair Duker will carry.

192 CHAIR DUKER: Adjourns meeting at 7:00 p.m.

Submitted by, Reviewed by,

Shannon Gossack Ruth Larson Assistant Administrator

EXHIBIT LOG: A - SB 98-1, staff, 6 pg. B - SB 98-2, staff, 8 pgs. C - SB 98-3, staff, 3 pgs. D - SB 98-4, staff, 3 pgs. E - SB 98-6, staff, 4 pgs. F - SB 98-7, staff, 2 pgs. G - SB 98-9, staff, 5 pgs. H - SB 98-10, staff, 2 pgs. I - SB 98-11, staff, 3 pgs. J - SB 98-12, staff, 3 pgs. K - SB 98-13, staff, 8 pgs. L - SB 98-14, staff, 20 pgs. M - SB 98-16, staff, 15 pgs. N - SB 98-18, staff, 3 pgs. O - SB 98-19, staff, 2 pgs. P - SB 98-20, staff, 2 pgs. Q - SB 259-1, staff, 1 pg. R - SB 259-2, staff, 3 pgs. S - SB 259 testimony, Chuck Patching, T - SB 259-7, staff, 6 pgs. V - SB 259-09, staff, 6 pgs. W - SB 259 testimony, Mr. Cunningham, 1 pg.