

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

April 17, 1991 Hearing Room "B" 3:00 p.m. Tapes 66- 67
MEMBERS PRESENT: Sen. Glenn Otto, Chair Sen. Jane Cease, Vice-Chair
Sen. Jim Bunn Sen. Ron Grensky Sen. Dick Springer MEMBERS
EXCUSED: Sen. John Kitzhaber Sen. Tricia Smith STAFF PRESENT: John
Houser, Committee Administrator Jayne Hamilton, Committee Assistant
MEASURES CONSIDERED: SB 1030 - Relating to people's utility
districts, PH/WS SB 1005 - Relating to hazardous material emergency
response, PH SB 310 - Relating to earthquakes, WS SB 311- Relating to
structural engineering, WS SB 312 - Relating to unsafe structures, WS .
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 66, SIDE A

005 CHAIR OTTO: Called the meeting to order at 3:09.

(TAPE 66, SIDE A) PUBLIC HEARING SB 1030 - RELATING TO PEOPLE'S UTILITY
DISTRICTS Witnesses: Denise McPhail, Portland General Electric Jo
Mordell, Portland General Electric Brian DeLashmutt, Oregon People's
Utility District Association Diane White, Oregon People's Utility
District Association

022 DENISE MCPHAIL, PORTLAND GENERAL ELECTRIC, (PGE): Read written
testimony, Exhibit A.

143 DIANE WHITE, OREGON PEOPLE'S UTILITY DISTRICT ASSOCIATION,
(OPUDA): - Read written testimony, Exhibit B.

224 GRENSKY: There are two People's Utility Districts (PUD)'s that have
acquired conservation Senate Government Operations April 17, 1991 Page 2
measures and that was negotiated between PGE and the PUD, is that right?

233 WHITE: Only Emerald has acquired them.

238 GRENSKY: Are you aware of any situations where one of these things
has actually gone to court? 240 WHITE: No. 241 GRENSKY: The court
is the last place you want to have anything like this resolved. What
evidence do you have to support the fact that you think the court is the
proper venue to resolve this, rather than required compensation by the
legislature? 250 WHITE: I believe there was one involving a PUD and a
coop. 254 GRENSKY: I would agree that the language is ambiguous and I
don't know how it could be changed. Apparently the PUD's and PGE have,
on occasion, been able to determine what this is because they have
negotiated exactly those things when the PUD occurred in Eugene. I'm not
sure, in view of that, this would be that big of a hurdle to get over
when it came time to form another PUD elsewhere. What would your comment
be to that? 264 WHITE: The language should be clear. 268 BRIAN
DeLASHMUTT, OREGON PEOPLE'S UTILITY DISTRICT ASSOCIATION: Referred to
pg. 3, Exhibit B. There are two problems: 1. the replacement value
versus what the value at the time is, and 2. what are we really talking
about as far as energy efficiency measures. Could it be interpreted that
if you install 1,000 shower heads to save hot water, and four or five
years later the cost of power has gone up, then is the cost of that
measure going up or down, because it's four years old? 298 GRENSKY:
How was it done in the Eugene situation. 300 DeLASHMUTT: My
understanding is that it was negotiated. It would no longer, with this
bill, be a matter of negotiation. With SB 1030, PGE would be able to say

this is the cost, this is what we haven't been paid, so this is what you owe us. 307 GRENSKY: I think what would happen is that they'd have their concept of what that would be. If you disagreed with it then you'd end up in court, and the court would decide what the replacement value was at that point. 313 WHITE: Which is exactly what would happen without this language. 314 DeLASHMUTT: We're arguing that in some cases the court may be the wrong place to make the decision. 326 GRENSKY: A condemnation proceeding is a great deal different than interpreting the actual replacement value of what's being taken.

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338 DeLASHMUTT: In 67, ln. 42, pg. 3, "or otherwise" doesn't belong there. 357 MCPHAIL: Capital investments are in rates, if we lose that territory to a PUD, the Public Utility Commission (PUC) will take it out of our rates, leaving us this energy efficiency investment, not providing any benefit to our customers, and without any way to recapture the investment on it. When trying to decide what to ask for, we researched the Columbia River PUD court filing, and were advised to have the reproduction costs, less depreciation, to us that translates to replacement value. These things would be on our books, we would know where they are and we can provide actual costs. 384 JO MORDELL, PORTLAND GENERAL ELECTRIC: In the past, for example, when Columbia River PUD took over our service territory, PGE did not pay the costs of the weatherization loans, the customer did. PGE gave them a loan for that measure. Now we are talking about energy efficiency measures where the customer may pay a portion of the cost, and PGE may pay a portion of the cost. We want to be able to recapture the costs being incurred by the remainder of our customers, if that section of service territory is taken over

421 MCPHAIL: The reference to reproduction cost, less depreciation can be found on the last page of the second attachment, Exhibit A.

446 OTTO: My understanding is the Rockwood PUD could take over the electrical service in that area, is that correct? 455 WHITE: Yes, a PUD can serve water or electric.

460 DeLASHMUTT: They could only take it over. There was a vote to fund the takeover of the actual purchase.

TAPE 67, SIDE A

WORK SESSION

024 MOTION: SEN. BUN MOVED SB 1030 TO THE FLOOR WITH A DO PASS RECOMMENDATION. 028 GRENSKY: I'm not sure what energy efficient entails. I would have liked to see a definition of that in here, but there isn't one. If the Committee is satisfied than I'm not going to make a big deal out of it. I do think it is valid that the people, who will be the ones to pay for it, have the right to know. 036 CEASE: Is there a definition of that any other place? 037 GRENSKY: I would be surprised.

040 MCPHAIL: The only definitions I found were the ones that go to weatherization loans. They do not cover the wide range of investments that we're looking at in the next twenty years. - 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 Government Operations April 17, 1991 Page 4 054 GRENSKY: I'm not sure what you mean by "Eminent domain or otherwise". Can you flush that out a little bit?

059 MCPHAIL: They can take it by "eminent domain" and we can go to court and battle it out, or at some point we can negotiate. That's what we mean by "eminent domain or otherwise it is a negotiated buy out."
072 VOTE: MOTION CARRIED, 4-1. VOTING NO, SEN. SPRINGER. (EXCUSED, SEN. KITZHABER AND SEN. SMITH). SEN. BUNN WILL LEAD THE FLOOR DISCUSSION.

(TAPE 67, SIDE A)

PUBLIC HEARING SB 1005 - RELATING TO HAZARDOUS MATERIAL EMERGENCY RESPONSE

Witnesses: Eugene Timms, Oregon State Senator, District 30 D. E. Jones, Oregon State Representative, District 60 Larry Dalrymple, City of LaGrande, City Manager Al Brown, City of Ontario, City Manager James Sterns, Hermiston Fire Department, Fire Chief Dave Stewart-Smith, Department of Energy Rainy Straud, State Fire Marshall

086 D. E. JONES, OREGON STATE REPRESENTATIVE, DISTRICT 60: Speaks in support of SB 1005. Last legislative session we created a funding source for The Hazardous Material Response Center to respond to hazardous spills on state highways. We failed, however, to put in that bill the proper language to allow the Fire Marshall to use those funds for personnel, which is necessary in order to make these centers work. This bill will provide that authority. . . . 125 EUGENE TIMMS, OREGON STATE SENATOR, DISTRICT 30: Rural areas do not have the people to take care of hazardous spills. For the record, we don't want to create a bureaucracy in the State Fire Marshall's Office. We want some people, out in our area, who will coordinate together, if we have a spill. I urge your support of this bill.

154 CEASE: What kind of training of local respondents has been occurring?

156 JONES: The people who would be involved would be trained by the Fire Marshall's Office.

161 CEASE: They could train those people without actually lending the personnel to do it?

164 JONES: They would send one person up there to do it.

165 CEASE: It's legal for them to do that?

166 JONES: As far as we know, yes. The fire district's personnel would be entitled to a higher

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wage, if they were trained for hazardous material. That would also be provided for by the State of Oregon.

181 TIMMS: There will be trained people on duty continually to handle the situation.

190 CEASE: The point is we are providing training for local emergency responders who are already in place in local government, right?

194 TIMMS: I'm not sure we have people in place already for hazardous substances. 196 CEASE: There are people on the state, as well as the local level, who can train other local people and then be experts on it without the state actually having to pay state personnel in a local position.

200 TIMMS: There are monies available, but we need it for personnel training, as well as equipment.

217 OTTO: Is there anyone in opposition to the bill? No one in opposition.

219 CEASE: Mr. Chair, I have some reservations about the bill.

227 LARRY DALRYMPLE, CITY OF LAGRANDE, CITY MANAGER: Based on the clarified intent, as expressed by Sen. Timms and Rep. Jones, the City of LaGrande would support this bill. If we're talking about training local personnel and asking the locals to support the total payroll cost and respond region-wide, I don't think we can get the cooperation of these three cities. We need some assistance with personnel costs and that is what this bill was intended to do.

242 CEASE: I have a problem with the state paying for state personnel who are on loan to local government. I don't have any problem with spending state money on training local personnel to become experts in this area. I have a problem with the state basically paying for a local government responder.

253 DALRYMPLE: It is not our intent to have a state employee working with us. It is our intent to contract with the state to provide that service. Part of the cost of that contract will allow us to fund personnel. 260 CEASE: The bill says lending personnel as well as equipment. 261 DALRYMPLE: It is the grants for the personnel, equipment and training that is our interest. Please don't hire more state people and send them out to coordinate what we need to be doing.

269 AL BROWN, CITY OF ONTARIO, CITY MANAGER: The City of Ontario would support this bill, as presented, by earlier witnesses. The Fire Marshall's Office describes Region 10, the Eastern Oregon region for hazardous material, as 41,000 square miles. When an incident occurs and we have to take eight people, or more, away from their home base in the City of Ontario, we have to bring in additional people to cover that, with the additional salary cost - 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 tape. Senate Government Operations April 17, 1991 Page 6 that is incurred. That is something that a fire department with only six career fire fighters can't afford to do. We ask that this bill be passed.

294 JAMES STERNS, HERMISTON FIRE DEPARTMENT, FIRE CHIEF: Supports the bill. Our local area and Mr. Brown's local area does not address the

problem, between these two there is some 200 miles, that without assistance and personnel costs cannot be provided for.

308 CEASE: In personnel costs for personnel that you employ? This bill goes far beyond that.

311 UNKNOWN: That's true.

313 CEASE: That's the part I'm addressing.

318 DAVE STEWART-SMITH, DEPARTMENT OF ENERGY: Read written testimony, Exhibit C. 381 CEASE: This bill does not restrict anyone, in any part of the state, from asking for personnel to be paid for, or a grant to be paid for, for either equipment or personnel? 387SMITH: That's correct.

388 CEASE: Is an agency put into the position of saying which responder they are going to pay for, even though one may be more drastically impacted by Measure 5, or whatever, than another? I'm concerned about the policy.

396 SMITH: I understand your concern on the policy. My interest in this is because of nuclear waste transport, as a subset of hazardous materials. We believe Eastern Oregon will be best served, from a public health and safety standpoint, with a regional hazardous material response team, in the event of an accident involving radio-active materials. We think the Eastern Oregon situation is sufficiently different from other areas of the state, that they can make a unique claim. We would be asking, in setting up a regional team in Eastern Oregon, for very small departments to cover far more territory than any department on the western side of the state. That kind of problem deserves an unique solution, if one isn't found, the cities have said "we can't do it" and Eastern Oregon will go uncovered by a Hazardous Materials Regional Team.

420 CEASE: Did you request legislation to have Eastern Oregon covered? This is a bill from Sen. Timms, it's not from the administration. 425 SMITH: I've talked to Sen. Timms about this bill and indicated my concerns. It may have been part of his thinking in submitting the bill.

430 CEASE: Seeing the problem, as it was, in your legislative package, did you request legislation to address the problem in this way?

435 SMITH: We did not request that. It has been our opinion in the past that existing legislation gave the Fire Marshall's Office enough flexibility to deal with it. It became clear that the flexibility was not there.

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440 CEASE: Only for lending personnel, because you can do a grant for a number of things, correct?

442 SMITH: Yes.

443 CEASE: The grants aren't restricted are they?

444 SMITH: I did not believe the grants were restricted, but we've been told by the Fire Marshall's Office that the intent of the original legislation was that grants are restricted to equipment and training and do not provide personnel.

450 CEASE: I didn't read it that way. Is there some other part of the statute that restricts that? 451 SMITH: I'm not aware of it, but my understanding from the Fire Marshall's Office was those restrictions were in place as a matter of concern by the Ways and Means Committee, in the 1989 session. 460 CEASE: Do you think they've changed their minds this session, or what? 461 SMITH: I'd hesitate to speak for the Fire Marshall's Office in that regard. 468 SPRINGER: Do you think it's realistic to cross-train personnel? TAPE 66, SIDE B

024 SMITH: I think there's room to explore those options. We don't feel that would fill all of the gaps.

045 RAIMY STRAUD, STATE FIRE MARSHALL: Gave brief overview of legislative history. Hazardous materials are a local responsibility. In general, the state provides training, equipment and operational authority and protection from liability. In exchange we ask our local government joint venture partners to provide staffing, to participate in the training, to house and maintain the equipment and to be available for 24 hour response. The only personnel we currently pay is for actual emergency operations time. We have succeeded in developing 9 regional response team contracts. The majority of those are in the Willamette Valley. In the Willamette Valley the local fire departments, and police agencies are closer together and are able to come together and train. We have not succeeded in Eastern Oregon because the cities are spread so far apart. Our first alternative, if this bill is not passed, is to look at caching equipment in some of the key cities.

082 CEASE: This is not an agency bill and so if you have a plan and you want to do it, where is the agency's bill, plan and budget to take care of that? The point I'm trying to make is this should go through the whole process of approval by the Governor, Executive, etc. and fitted in as part of the budget, if this is an agency bill. 099 STRAUD: The State Fire Marshall was party to an agreement made during the 1989 session, and we don't feel we can break that agreement. Industry supported us to the tune of \$3,000,000+ and we did not want to go outside the bounds of what we said we would be

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 Government Operations April 17, 1991 Page 8 willing to do. Our contingency plan, within the bounds of that agreement and our base budget, was to cache equipment in strategic locations, provide local government training to the extent they were willing to participate and then to fly team members in from either Redmond or Gresham. The public policy question is, is that an acceptable emergency response concept, in the sense that we're talking perhaps 4-8 hours response time and probably not being able to get to the scene of an emergency year round due to weather conditions. Eastern Oregon folks have felt this was not a viable alternative-, and on that basis we are working closely with them and trying not to step out of the lines that have been drawn.

Witnesses: Rodger McGarigill, Seismic Safety Policy Advisory Committee, Chairman

132 RODGER MCGARIGILL, SEISMIC SAFETY POLICY ADVISORY COMMITTEE, CHAIRMAN: We think that the issues in SB 310 are being addressed adequately. We are not interested in pursuing this bill.

TAPE 66, SIDE B WORK SESSION SB 311 RELATING TO STRUCTURAL ENGINEERING

- Witnesses: Joe Gehlen, Structural Engineers Association of Oregon
Rodger McGarigill, Seismic Safety Policy Advisory Committee, Chairman
150 MOUSER: Distributed a letter from Sue Hanna, Exhibit D, the -3 amendments to SB 311, Exhibit E, and a letter to from John Talbott, Exhibit F. 152 JOE GEHLEN, STRUCTURAL ENGINEERS ASSOCIATION OF OREGON: The intention of the -3 amendment to SB 311, Exhibit E remains the same. We do not want to require people doing plans review to be structural engineers. Reviewed the remaining -3 amendments to SB 311, Exhibit E. Refers to the grandfather clause, engineers who are currently practicing as structural engineers, who are not qualified by testing, should have some method to show qualification to the Board, to continue their practice. The amendment doesn't address this. 232 RODGER MCGARIGILL, SEISMIC SAFETY POLICY ADVISORY COMMITTEE, CHAIRMAN: We understand Legislative Counsel's concern to the grandfather clause. We don't see how you can improve laws, if you hurt a lot of people who are currently performing a function. We're trying to look to the future with education as a key issue, we don't want to hurt anyone.

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249 CEASE: If you are a civil engineer, practicing under the Board of Engineering Examiners, have you not had a course in structural engineering? 252 MCGARIGILL: You may or may not have. It has not always been a part of a civil engineering program. There is a significant specialization in earthquake design for structures. 266 CEASE: Why doesn't the Board add questions to the exam to address that?

267 MCGARIGILL: We have asked for this, and the Board would like to have the examinations the same in all states. Oregon is offering two structural examinations just to accomplish that, however there's no requirement to take the exam. That's the issue.

278 GEHLEN: The civil engineer can take an eight hour exam and be qualified to do the significant structures that we are talking about. At this time there's no reason for the engineer to take a two day exam. There is a national exam to qualify the engineer as a structural engineer. There is also a California exam, which is more rigorous for seismic design, and eventually we would like that to be the required exam. 294 OTTO: So your bill, as of now, is not complete in your opinion?

297 MCGARIGILL: We think the grandfather clause should be included, but it may not be possible. 300 GEHLEN: Legislative Counsel is concerned about the legality of a blanket grandfather clause, which in effect, would allow anyone currently performing this kind of function to

continue. A specified period of time, was offered as an option, so anyone offering this service could pass the test and then continue to practice.

314 OTTO: In your opinion, is the bill ready to pass out?
316 GEHLEN: It's a policy issue for the Committee. Does the Committee feel some form of a grandfather clause would be appropriate in the bill?
320 CEASE: I always take Legislative Counsel's advise. 327 GEHLEN: Allowing people to practice for an extended period, before taking an exam, would be preferable to nothing. 334 MCGARIGILL: We would suggest a ten year window. That sounds ridiculous, but I can assure you that people my age, who have been practicing competently, would have great difficulty passing this examination. 348 BUNN: You said those practicing competently would find it difficult to pass the test, but what about those who are not competent? 351 MCGARIGILL: I don't know what kind of success the bill will have if we don't give it some option here. .

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355 GRENSKY: I don't feel real comfortable with what I'm hearing. The grandfather clause is a legitimate point, but I'm not real excited about picking a figure and saying this is a good way to do it. I think we should revisit it another day, if it's okay with the Chair. 366 OTTO: Concurr. 367 HOUSER: If it's appropriate, I will check with Legislative Counsel to determine a time frame they would be comfortable with, in terms of the legal question they have.

(TAPE 66, SIDE B) WORK SESSION SB 312 RELATING TO UNSAFE STRUCTURES 380 MOUSER: Reviewed a letter from the Structural Engineers Association, Exhibit G.

426 BUNN: I'm not supportive of the 2.5% sur tax on all building permits, and I question the 50% tax credit.

433 OTTO: Why don't we delay action on this also?

438 GRENSKY: Concurr. We might look at all of the earthquake bills and come up with something that's going to work.

447 OTTO: Concurr.

456 Meeting adjourned at 5:00 p.m.

Submitted By: Reviewed By: Jayne Hamilton/Joan Green Julie Muniz
Assistant Assistant

EXHIBIT LOG A - Written testimony, Denise McPhail, 19 pas. B - Written testimony, Diane White, 5 pas. C - Written testimony, David Stewart-Smith, 5 pas. D - Memo, Hanna, 1 pg. E - SB 311-3 amendments, Staff, 2 pas. F - Written testimony, Talbott, 2 pas. G - Written testimony, Joe Gehlen, 2 pas.

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