

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

SENATE COMMITTEE ON
TELECOMMUNICATIONS AND CONSUMER AFFAIRS

May 2, 1991Hearing Room B
1:00 p.m.Tape 52 - 53

MEMBERS PRESENT:Senator Jolin, Chair
Senator Otto, Vice-Chair
Senator Kennemer
Senator Bunn
Senator Shoemaker

STAFF PRESENT: Cherie Copeland, Committee Administrator
Apryl Poff, Committee Assistant

MEASURES HEARD: SB 816 Caller identification blocking, WS.
SB 1188 1-900 phone numbers, WS.
SB 1213 Telecommunications privacy policy, PUB and WS.

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PUBLIC HEARING AND WORK SESSION.

TAPE 52, SIDE A

005 CHAIR JOLIN: Calls the hearing to order at 1:37 p.m.

SB 816 CALLER IDENTIFICATION BLOCKING, WS.
Witnesses: Ron Eachus, Public Utility Commission.

015 CHERIE COPELAND: Introduces and summarizes the -4 amendments which will effectively replace the current language with language suggested by the PUC. The new language states that if a local exchange telephone company offers caller number blocking, the caller ID blocking shall not be blocked for 911 service calls. Information received through the call number identification service is confidential until an official report is made.

031 MOTION: Chair Jolin moves the SB 816-4 amendments.

033 SENATOR KENNER: What does Section 2 (2) mean?

035 CHERIE COPELAND: It means that a person's name, address, and phone number can't be disclosed to anyone unless or until an official report is filed.

045 SENATOR KENNER: If someone calls to report an emergency will the police or medical units be able to locate them?

050 RON EACHUS: This doesn't affect the disclosure of the information as it's needed for the emergency services to do their jobs. It does, however, limit the access anyone else has to that information. They only have access to that information when a report has been filed.

077 VOTE: There being no objections the motion carries.

088 MOTION: Chair Jolin moves SB 816 as amended to the floor with a Do
Pass recommendation.

VOTE: In a roll call vote the motion carries with all members present voting
"AYE." Senator Bunn excused.

085 Senator Kennemer will carry the bill.

088 CHAIR JOLIN: Closes work session on SB 816 and opens work session on SB 1188.

090 SB 1188 1-900 PHONE NUMBERS, WS.
Witnesses: Ron Eachus, Public Utility Commission.

Pat Hickey, AT&T.
Timothy Wood, Assistant Attorney General.

100 CHERIE COPELAND: Introduces the SB 1188-5 amendments. Section 2 deletes contract language. The amended bill states that an information provider that does business in Oregon must state certain information in the preamble of the phone call. The preamble was expanded to include all permutations of the price of the call including (d) and (e). Subsection 4 of Section 2 exempts the preamble requirement for polling calls costing under \$2. Section 3 is unchanged. Sub 3 of Section 3 also is unchanged.

120 Section 4 (1) deals with advertising aimed at children. Subsection 1 adds language about children having funds of their own and making informed purchasing decisions. Subsection 2 adds language about rebuttable presumption. Subsection 4 adds a limit of \$4 per call for ads aimed at children under 18. Subsection 5 (a) adds prohibition to advertising aimed at children for calls that contain imbedded messages to call another number. Subsection 2 adds the rebuttable presumption language about ads aired during programs aimed at children. Section 5 of the -5 amendments is in the amendments by mistake and should be deleted. The section numbering following that needs to be changed also. Section 6 has no changes. Section 7 has only minor language changes. Section 8 includes options regarding billing statements. Section 9 remains the same. Lines 21-23 on page 5 should be deleted because that definition went with Section 5. Section 10 is new language adding the provisions of SB 1188 to the Unfair Trade Practices act. Section 11 is an effective date of January 1, 1992. This allows phone companies time to make adjustments to their equipment.

165 CHAIR JOLIN: What is the status of other states regarding this issue?

170 CHERIE COPELAND: There are several states that have adopted some kind of law dealing with the 900 issue. Most of them are quite limited. The Attorney General's office has told me that this is the most comprehensive piece of legislation of this type and that other attorneys general are interested in using this as a model.

210 SENATOR KENNEMER: Some of the smaller telephone companies may not have the software and the capability of meeting some of these standards. Are there going to be any breaks for these people?

215 CHAIR JOLIN: David Overstreet of GTE is seeking information from his company on how best to address that issue. Instead of trying to figure this out now, I would be committed to taking it to the House side where it would be placed in the Business and Consumer Affairs Committee to be worked out then.

225 SENATOR SHOEMAKER: Why is a polling application exempt?

270 TIMOTHY WOOD: We haven't seen any problems with polling applications. MCI feels very strongly about the polling issue and if that is what it takes to move the bill then we will accept that provision. If there is a problem with this, then we would come back and fix it.

289 SENATOR SHOEMAKER: What do you feel is a reasonable price to pay per call?

293 TIMOTHY WOOD: We debated with the telephone companies and compromised on \$2. If we were to eliminate "polling" and say it's alright to run any type of ad dealing with pay per call and not make disclosure as long as the charge is \$2 or less, then I would see where there could be a problem.

310 SENATOR SHOEMAKER: What if on line 7 instead of "or" we used "and"? Do you think that would cover everyone?

317 TIMOTHY WOOD: That sounds alright with me.

320 CHERIE COPELAND: Part of what the working group was worried about was things such as the time of day, weather report, and simple information things like that are generally under \$1.

343 SENATOR SHOEMAKER: Why don't we just eliminate the reference to polling and throw in a \$2 exception?

345 TIMOTHY WOOD: It seems to me that will work.

351 SENATOR KENNEMER: I think that is an excellent suggestion.

355 PAT HICKEY: As I see it the behavior you're trying to stop with these suggestions is fraudulent behavior regarding polling. Our contention is that it's difficult to defraud someone when you're trying to get them to vote on something.

380 SENATOR SHOEMAKER: Does the polling ever result in a charge of more than \$2?

385 PAT HICKEY: I haven't seen one that has. This figure was a negotiated figure.

432 CHERIE COPELAND: If you eliminate the reference to polling and use the \$2 limit then if your poll cost \$2 or less then is it covered by this exemption?

440 PAT HICKEY: Yes. In the working group we looked at the situation where the person is offering the weather report for fifty cents. Should you require that the weather report have a long, drawn-out preamble saying that you're going to be given the weather report? We tried to compromise and now we have situations where the weather report doesn't have to disclose the cost or the polling doesn't have to disclose its cost.

465 CHAIR JOLIN: We can do one of two things today. We can either design the amendments and adopt them today, or the chair will be committed to address the issue on the House side.

475 SENATOR KENNEMER: I would suggest that we conceptually amend the bill.

480 CHAIR JOLIN: Do we want to take out the reference to polling completely?

489 SENATOR SHOEMAKER: Yes. I move that the bill should read that when an information provider program message results in a flat charge of \$2 or less then this section doesn't apply.

490 CHAIR JOLIN: There being no objections Senator Shoemaker's motion carries.

TAPE 53 SIDE A

030 MOTION: Chair Jolin moves the SB 1188-5 amendments as further amended.

VOTE: There being no objection the motion carries.

047 MOTION: Chair Jolin moves SB 1188 as amended to the floor with a Do Pass recommendation.

VOTE: In a roll call vote the motion carries with all members voting "AYE."

SB 1213 TELECOMMUNICATIONS PRIVACY, PUB.

Witnesses: Ron Eachus, Public Utility Commission.
Ginny Lang, US WEST Communications.
Pat Hickey, AT&T.
Dave Overstreet, GTE.
Mike Katz, Public Utility Commission.
Jim Long, ACLU, Citizen's Utility Board.

075 RON EACHUS: Gives testimony in favor of SB 1213. We are generally supportive of the policy concepts contained in SB 1213. The bill's primary purpose is that it clearly establishes that privacy shall be a consideration in providing telecommunication services. It also requires us to incorporate these considerations in our review of these services. This is beneficial from a legal standpoint to have this policy in statute. We don't view the rest of the bill as prescribing or prohibiting any particular service, and it allows the Commission to explore alternatives in the proceedings which we have on the privacy issues. Submits copy of current issues list that the parties have identified in our caller ID proceeding (EXHIBIT C).

105 SENATOR BUNN: Do you think that it opens up liability if we say that telecommunications service providers shall educate their customers as to the implications of privacy for the services they offer?

110 RON EACHUS: If the Commission considers privacy in the filing of a tariff and the company presents in its tariff a plan for educating its customers as to the privacy aspects or the uses of the

particular services it relates to privacy and the Commission approved that tariff then I think that would reduce the liability of the company if they stayed within the terms of the tariff.

150 CHAIR JOLIN: I have studied the issue of what other Commissions in other states have done with the issue of privacy. The telecommunications technologies are ever changing. I think the issue of privacy is something that we should always consider as a matter of general policy in the state. Being one of the sponsors I made some comparisons and decisions of what things I believed were important to look at. This is something we want the PUC to look at and come to their own conclusions but these are some of the aspects we want them to look at.

185 SENATOR BUNN: I read the bill differently when it says that the Commission shall promulgate such rules as necessary to carry out the following policy. Then I look at Subsection (f) and I think that it's a prohibition of caller ID.

195 CHAIR JOLIN: Refers to hand engrossed SB 1213-2 amendments (EXHIBIT D) which deletes the Sub f under Section 2 that you're talking about.

230 PAT HICKEY: AT&T would like to have a balanced approach to the privacy issue. AT&T believes that there should be a Commission activity looking at the issue. There should also be a policy that's developed and rules promulgated as issues arise as opposed to prospectively when we don't know where people are falling out on privacy.

277 CHAIR JOLIN: I believe that privacy is a very important issue. This doesn't lock the PUC into anything including the possibility of a total prohibition against caller ID. This bill does allow the PUC through this direction to discuss through the public process this issue. This bill sets forth guidelines that the legislature thinks needs to be discussed and considered.

296 GINNY LANG: US WEST Communications basically has the same beliefs and concerns of AT&T. We are concerned that it seems to indicate some very specific areas that the PUC should be promulgating rules in. We find the requirements of tariff filings for new services to be burdensome in trying to bring new services to market. A policy statement of several sentences at the front end of this bill would be adequate. The Commission would then be able to go forward on the specifics of the kinds of rules that are really needed as we work through it.

329 CHAIR JOLIN: What is your major concern of this bill?

317 GINNY LANG: The language in Section 2 sub 2 which says that the Commission shall promulgate such rules as are necessary, and I understand that allows for leeway to carry out the following policy. I'm not seeing that sub a, b, c, are policy. If those subs are setting the policy then I think that is confusing to start with.

341 CHAIR JOLIN: The intent isn't to set policy. The intent is that the Legislature feels that these issues should be discussed and looked at and also decided upon by the PUC.

363 SENATOR BUNN: In section 2 sub 1 what you're saying is that it's alright when it says that the legislature can find a way to pay attention to privacy. But leave out "the Commission shall promulgate rules".

375 GINNY LANG: Yes, that would be preferable.

376 CHAIR JOLIN: If the PUC allows caller ID to come forward, won't you be promulgating rules?

386 RON EACHUS: We may or may not, it depends on what comes out of the proceedings. We have had instances where we determine whether or not rules are necessary on the basis of experience.

406 CHAIR JOLIN: How often do you promulgate rules?

412 RON EACHUS: I'm not sure without some analysis. Very frequently rules are adopted on a basis of looking back retrospectively. In some cases we may have promulgated some initial rules. The more experienced we are with the subject the more we open up new rulemaking proceedings.

455 SENATOR BUNN: Would it be helpful to the Commission for the Legislature to set policy?

460 RON EACHUS: I think that it's helpful from the PUC point of view and probably from the public's point of view to have a legislative finding that privacy must be a

consideration. Privacy is going to be a consideration by nature of the service that is offered and the constituencies that we are required to protect. The issue of privacy needs to be dealt with by the utility whenever it files a tariff.

TAPE 51 SIDE B

055 RON EACHUS: Section 2 sub (2) is telling the utilities that when they file a tariff, they have to address privacy concerns. We are trying to avoid getting caught up in whether we should promote rules, or the reference to the following policies being operative.

070 SENATOR BUNN: Does the PUC have a problem with the list if Sub f is gone? If we just take section 2 sub 1, we are getting at the privacy issue?

075 CHAIR JOLIN: In the sub 2 language, if you removed "the Commission shall promulgate such rules as are necessary to carry out the following policy," is the hang-up there that we are requiring you to cause rules to be made?

080 RON EACHUS: If we are to proceed with this bill there are two ways to go about it. We could state a legislative finding and require the telecommunications utilities to consider privacy implications whenever they file a tariff for a service. If you wanted to go that way I think you could re-word section 2 sub 2 to do that. The rules as necessary wouldn't make any difference. The other way to go is to go a step farther and tell the Commission and the utilities there are certain things we want to make sure are considered and certain policies that we want applied whenever privacy is considered. If you want to go this way then you could continue with the bill as is. From the PUC's point of view either way would be fine with us.

105 GINNY LANG: When we file a tariff for any change in service or new service there is considerable rigor in the amount of analysis that we need to provide and the time taken to look at all the issues.

115 DAVE OVERSTREET: I have no official opinion on behalf of GTE. GTE is very concerned about telecommunications privacy. My concerns are in Section 2 Subsection 2 (c) when we talk about telecommunications service providers shall educate their customers. In subsection d when we refer to current privacy expectations, what are privacy expectations? The verbiage in this bill can be interpreted in different ways by different people.

160 SENATOR BUNN: We need to recognize that privacy is going to be an issue that the Commission needs to take a look at. Section 2 sub 1 (a) (b) are alright; we just need to state that those considerations will be taken when dealing with a tariff. If we take out the sections dealing with "shall be operative" or "shall promulgate rules" then we recognize a need.

178 DAVE OVERSTREET: I agree with everything you have just said.

199 MIKE KATZ: I believe that it is necessary for us to establish a privacy policy. This is in the consumer interest. There are three telephone privacy issues that are surfacing at the present time. Caller ID, solicitation, and customer proprietary network information. Discusses legislation that was enacted last session dealing with the three privacy issues. The PUC is very sensitive to the privacy issue and feels that legislation is very useful in whatever form it comes in. I would suggest on line 22 of the printed bill substituting the word "inform" for "educate". This is my personal preference and hasn't been discussed with the PUC.

345 JIM LONG: Submits and summarizes written testimony in favor of SB 121 3 (EXHIBIT F). SB 121 3 will empower the Public Utility Commission to consider privacy issues in regulating the telecommunications monopolies. This bill is simple and easy to understand and addresses many of my concerns in requesting that this committee consider privacy issues and caller identification. The two concerns that I have concerning this issue are the following:
>Customers shouldn't be charged for services they don't use.
>Customers shouldn't have to pay telephone companies for privacy.
There is a strong support for SB 1213 and the protection of privacy for Oregonians using telecommunications.

425 CHAIR JOLIN: Adjourns hearing at 3:05 p.m.

Submitted by: Reviewed by:

Apryl Poff Cherie Copeland
Assistant Committee Administrator

EXHIBIT LOG:

- A - SB 816-4 hand-engrossed amendments submitted by staff, 1 page.
- B - SB 1188-5 amendments submitted by staff, 2 pages.
- C - Summary of issues submitted by Ron Eachus, 2 pages.
- D - SB 1213-2 hand-engrossed amendments submitted by staff, 2 pages.
- E - Written testimony submitted by Mike Kane, 1 page.
- F - Written testimony submitted by Jim Long, 1 page.