

TAPE

- 473- REP. SKELTON, chief sponsor of HB 2946 appeared before the committee to explain the reason for introduction of this bill. He explained that this particular bill came out of Sub-committee 6 in the Ways and Means Committee. He stated that there have been three cases come through his office (insurance claims) having to do with motorboat accidents. In each instance the motor boat has been uninsured. The welfare department usually must take care of these people that have been injured as a result of motorboat accidents. Discussion followed.
- 485- REP. AUCOIN asked if REP. SKELTON would consider a Horse Power differential. The answer was yes.
- 486- REP. STEVENSON stated that the \$25,000 amount should be considered as being less. A less amount of \$10,000 was proposed.
- REP. WHALLON said he would bring his insurance books to the next meeting, June 11, 1973 so the committee could further discuss the fixed amount of liability insurance.
- REP. STEVENSON stated that HB 2946 would be heard further at the next meeting.
- 496- HB 3272- Expands lien of employe whose employer fails to pay required contributions to employe benefit plans to include improvements and lands on which such employe worked. Provides such lien with same priority as mechanics' and materialmen's liens.
- 497- GLENN E. RANDALL, Oregon AFLCIO, appeared before the committee to give favorable testimony on HB 3272. He stated that his bill was drafted by the legal council for the Joint Labor-Management Health and Welfare Trust Funds for the Construction Carpenter Group. The problem arises when a contractor does some building and refuses to pay the fringe benefits for his employees and the employers have no recourse. This bill would allow for the money for fringe benefits to be collected by means of a lien. Discussion followed.
- 536- REP. WHALLON brought up the question of who are we trying to protect, the man doing the work or the owner of the property? It is the person's who is hiring the work done responsibility to make sure that the contractor is qualified and competent.
- 539- REP. AUCOIN moved that HB 3272 be sent to the floor with a "Do Pass" recommendation. AYES: AUCOIN, BYERS, LINDQUIST, STEVENSON, WHALLON, WOLFER. NOS: JONES, OAKES. ABSENT: BAZETT, JOHNSON L., PECK.
MOTION CARRIED.

Senators and one Representative were quoted as having said that they would do their best to enact a law such as that in California requiring sex offenders to register before entering a community. Dr. Kole commented that SB 447 did not speak to that issue but he would hope that the legislature would not be precipitated into that type of action.

Mr. Paillette asked Dr. Kole if he had encountered any difficulty with the definition of "sexually dangerous person" as it was defined in ORS 426.510. Dr. Kole replied that the definition was the result of some specific incidents occurring about 10 years ago when people were looking for a better way to protect society and for a way to treat instead of punish sexual offenders. The definition had worked out better than they had expected and they had been able to work with these individuals in a reasonable manner.

Rep. Marx asked if there were provisions replacing the repealed provisions relating to the parole of sexually dangerous persons. Dr. Kole advised that the bill would replace the procedure of going through the Parole Board with a trial visit status that was internal to the hospital. It was a simplified process that did not go through another agency and one with which the Parole Board concurred.

Rep. Paulus moved that the bill be reported out with a do pass recommendation. Motion carried unanimously. Voting: Hampton, Katz, Magruder, Marx, Paulus, Wolfer, Mr. Chairman. The Chair directed that the bill be placed on the Unanimous Consent Calendar and assigned Rep. Paulus to lead the floor discussion if it were removed.

House Bill 3272

Mr. Paul Bailey advised that there were now approximately 10,000 carpenters and 1,200 employers covered by the AGC Carpenter Trust Funds. The funds were made up of fringe benefits payable by contributions from employers. The fringe benefits, he said, were becoming larger all the time and had increased from a contribution of 10 cents per hour in 1956 to \$1.36 an hour at this time. In addition, there were now five trust funds instead of one.

Mr. Bailey said they had encountered no problems with the "good" employers, but some of the fly-by-night employers were causing problems when they went bankrupt and there was no money left to offer protection to the individual workman. For this reason HB 3272 was introduced to provide that those payments could be attached like a mechanics' lien on the theory that the fringe benefits were in effect wages and the employe was improving the property the same as a mechanic with the owner receiving the benefits of his labors.

Mr. Bailey distributed what he said was an incomplete list of employers who had either gone bankrupt or had failed in some manner to pay their obligations. A copy of this material is on file as Exhibit D.

Rep. Hampton asked how the notice of lien was filed and was told by Mr. Bailey that it would be filed in the county clerk's office and a copy would be sent to the homeowner and to the contractor. He explained that the notice requirement appeared in a section of ORS not set out in the bill.

Rep. Hampton said that if an employe had worked on 10 or 12 homes, there would be a lien on all those homes for the amount of the required contribution. Mr. Bailey replied that the lien would be on each home to the amount the employe had worked on that property.

Rep. Hampton indicated that in a situation where the homeowner had contracted with a contractor to perform a specific service and had paid for that labor but the contractor had not paid into the benefit fund, the homeowner would then be liable for contributions to the health and welfare fund under the bill. Mr. Bailey replied that the homeowner would have to do the same thing under existing law if the contractor had not paid wages due. Rep. Hampton said it appeared to him to be an extraordinary burden to place on the homeowner to require him to determine that all his contractors and subcontractors had made this contribution before he could be assured there was not a lien on his property. Mr. Bailey contended the burden was no greater than the determination that all wages had been paid.

Rep. Paulus moved that HB 3272 be referred to the Subcommittee on Liens of the Law Improvement Committee. Mr. Bailey commented that there was need for expediency in passage of the bill because a number of employes were being hurt by the present law. Vote was taken on Rep. Paulus' motion which failed, Voting for the motion: Hampton, Paulus, Mr. Chairman. Voting no: Katz, Marx, Wolfer.

Opponents. Mr. Kenneth R. Schramm, a member of the Law Improvement subcommittee working on lien laws, said he was not opposed to giving this fund lien status; however, he was opposed to the manner in which the bill proposed to bring it about. He explained that the notice required by ORS chapter 87 was peculiar to this chapter alone and it worked all right because the lien was between the employe and employer with no third parties involved. The bill, however, engrafted the innocent homeowner, the mortgagee and others into a situation where the statute would permit the filing of a lien within 60 days after such payment became due, and the time for payment was set by agreement. He contended that this provision would bring about an element of uncertainty for an indefinite period after a house was completed which could conceivably extend to several months because the lien did not have to be filed until 60 days after the payment was due. He suggested an amendment stating that in no event would the lien be valid after a specific number of days following completion.

The other problem pointed out by Mr. Schramm was that nowhere in the provision providing for the filing of a lien was there a requirement for a description of the property nor even a requirement that the

owner's name appear. He said he did not see how there could be a lien against specific real property under a provision that did not require a description of the property.

Mr. Dave Barrows expressed the view that it would be more appropriate to refer HB 3272 to the Law Improvement subcommittee inasmuch as they were making a thorough study of this field. He urged that the legislature forego opening up such a complex area at this point in the session.

Rep. Marx asked if it would make the bill more workable to include a specific expiration date and Mr. Barrows conceded that it would improve it. Rather than tinkering with it, however, he recommended that it be given to those who had been asked to do an expert job in the area of liens.

After further discussion, Chairman Cole told the witnesses that if they could work out some amendments to clear up the problems that had been discussed, the committee would consider them at its work session on the following day.

WORK SESSION

Engrossed House Bill 2923

Chairman Cole asked Mr. Bob Holloway to explain the relationship between HB 2923 and HB 2010, the recodification of the Game Code. Mr. Holloway advised that the potential penalty under HB 2010 was greater than under HB 2923. The other difference was in the provision relating to revocation of licenses. HB 2010 provided for a revocation of 18 months whereas HB 2923 provided for two years. He was of the opinion there was not a pressing need for HB 2923.

After further discussion, Rep. Hampton moved to table HB 2923 and send a note to Rep. Wilhelm, sponsor of the bill, advising him of the committee's action. Motion carried. Voting for the motion: Hampton, Katz, Magruder, Wolfer, Mr. Chairman. Voting no: Marx.

House Bill 3066

Chairman Cole explained that HB 3066 would give the personal representative the right to bring suit to set aside illegal transfers of real property.

Rep. Magruder moved that HB 3066 be reported out with a do pass recommendation. Motion carried unanimously. Voting: Hampton, Katz, Magruder, Marx, Wolfer, Mr. Chairman. The Chair directed that the bill be placed on the Unanimous Consent Calendar and assigned Rep. Wolfer to lead the floor discussion if it was taken off.

Rep. Paulus moved SB 582 to the floor with a do pass recommendation. Motion carried. Voting "aye": Hampton, Magruder, Marx, Paulus and Chairman Cole. Voting "no": Katz and C. Wolfer. Absent: Bunn, Marx and R. Stults. Rep. Paulus will carry the bill.

House Bill 2399

Rep. Paulus moved to table 2399. Motion carried. Voting "aye": Bunn, Katz, Paulus, C. Wolfer and Mr. Chairman. Voting "no": Marx. Absent: Hampton, Magruder and R. Stults.

Senate Bill 677

Senator Vern Cook reported this bill had been introduced last session and passed in the Senate but not in the House. He explained it stated the trial of violations of city ordinances may be conducted in the district court at the option of the city involved and made possible elimination of all city courts if the cities in which there were district courts serving them did not want them. This would create a higher level of justice, Sen. Cook believed, as in many cities a city recorder or struggling lawyer would serve as the judge. This was an optional matter with the city making that option to take advantage or keep their own court.

Sen. Cook believed this was the only way people in lower courts would receive the level of justice entitled to them.

Engrossed Senate Bill 85

Senator Vern Cook explained the need for this bill was called to his attention by a guard that he thought it germane to have this authority within the county jail. This would give the sheriff authority under certain circumstances and was very limited.

House Bill 3272

Joseph F. Ceniceras, attorney from Portland, prepared proposed amendments to this bill (see EXHIBIT E attached) which would be an alternative acceptable to the title companies. Rep. Hampton explained this would move everything over to the mechanics lien, and would protect the workman while still allowing the lien revision people to work on the whole thing.

A contact will be made with Dave Barrows from the Oregon Savings and Loan League for his opinion on the proposed amendments.

Chairman Cole questioned when the payments would be payable, to which Mr. Ceniceras replied they would become due on the 25th day of the month after the work was completed. He would suggest the lien apply only to a contribution which was due before the work or improvements were completed.

WORK SESSION: HB 3272, Eng.Re-Eng 708, HB 2797, SB 400, 662, 821, Eng 835, 852, 880, 886, Eng 85, Re-Eng 329, Eng 792, 48, 538, 677, 697

HOUSE JUDICIARY COMMITTEE
Room 14, State Capitol
June 26, 1973
8:00 a.m.

Members present: Rep. George Cole, Chairman
Rep. Norma Paulus, Vice Chairman
Rep. Lewis Hampton
Rep. Robert Marx
Rep. Robert Stults
Rep. Curtis Wolfer
Rep. Vera Katz

Excused: Rep. Stan Bunn

Delayed: Rep. Dick Magruder

Staff Present: Donald L. Paillette, Legal Counsel

Chairman Cole opened the meeting at 8:15 a.m.

House Bill 3272

Joe Cenicerros, and attorney from Portland, reported he had checked with Dave Barrows on the proposed amendments and that Mr. Barrows would prefer it be referred to the interim committee but would not oppose the bill.

Rep. Hampton reported he had contacted Kenneth Schramm of Transamerica Title Company who reviewed these matters, and the question of 60 days was raised. Mr. Cenicerros and the Chairman had considered this and concurred that the bill was in workable form. Rep. Hampton also reported the title companies were pleased to have it handled this way rather than as it was at present under 855, as it would remove some of the ambiguities.

The amendments were adopted as presented.

Rep. Katz moved HB 3272 to the floor with a do pass recommendation as amended. Motion carried. Voting "aye": Hampton, Katz, Marx, C. Wolfer and Chairman Cole. Voting "NO": Paulus and R. Stults. Absent: Bunn and Magruder.

Engrossed Re-Engrossed Senate Bill 708

Copies of the U.S. Supreme Court opinions in the recent Miller v California case were received by committee members and proposed amendments were submitted by the Attorney General's office (see EXHIBIT A attached) and also amendments from Harl Haas, District Attorney of Multnomah County (see EXHIBIT B attached). Chairman Cole explained the request made by the AG to look at proposed Section 9 which created a crime of negligently making obscene material available to a minor and also Sections 10 and 11 to include these in Section 4 rather than having a separate section.

A -- Audit
K -- Known Amt. Due
J -- Judgment

	Walt Musa		\$ 8,999.00	pending 3/18/71
	Equitable Builders		24,789.00	outstanding
Bank/	John Rawlinson	audit	23,600.00	
Bank/	Backers, Inc.	known amt.	5,842.00	
Bank/	Preferred Contractors	J.	4,660.00	
	Donald Schmitt		unknown	
	Herauf		3,000.00	
Bank/	Sullivan		unknown	
Bank/	3 Keys Builder	Lien - K	13,340.00	
	Homestead Bldrs.	A-K	5,278.00	
Bank/	Neely Const.		6,583.00	
Bank/	R&R Swan	K	5,187.00	
	Douglas McKee	J	3,700.00	
Bank/	Pioneer Drynall, Inc.		3,002.00	
	s/o Development, Inc.		9,413.00	pending

SEP 2 1971

MASON
D. OREGON WASHINGTON CARPENTERS
HEALTH AND WELFARE FUND
P.O. Box 3168
Portland, Oregon 97208

OREGON-WASHINGTON CARPENTERS EMPLOYERS HEALTH AND WELFARE FUND
JUDICIARY COM.
OREGON STATE ARCHIVES
IMPORTANT! READ CAREFULLY

Part 1—Employee completes in all cases.
Part 2—Attending physician or surgeon completes.
Attach itemized bills except those for services shown in "Attending Physician's Statement" in Part 2 on the reverse side of this form.

PART 1
EMPLOYEE COMPLETES IN ALL CASES

- Employee Timothy Francis Lovell Name of patient Timothy F. Lovell
- Claim is for: Self Spouse Child Patient's Date of Birth DEC. 29, 1948 M F
- Name of your spouse Patricia A. Lovell Name and address of employer John B. Rawlinson
- If claim is for dependent child give name and address of his or her employer _____
- Is patient covered under any other group insurance? Yes _____ No If "Yes" give name and address of insurance company _____ Group Policy Number _____
- Is this patient's condition due to injury or illness arising out of his employment? NO (Yes or No)
- Is loss due to accident? YES (Yes or No) If yes, WHEN? July 19, 1971 11 P.M. WHERE? Troutdale ORE. HOW? motor cycle accident

IF PATIENT IS THE EMPLOYEE, ALSO COMPLETE LINES 8 and 9.

- Date employee last worked prior to current disability July 19th, 1971
- First date physically unable to work July 20th Date returned or available for work Aug. 24th

I hereby certify that the foregoing statements, including any accompanying statements, are to the best of my knowledge and belief, true, correct, and complete. I hereby authorize any physician, hospital, or any pharmacy to furnish and disclose all known facts concerning this disability to The United Benefit Life Insurance Company. A copy or photocopy of this authorization shall be valid as the original.

Social Security No. 543-58-6967 Signed Tim F. Lovell (Employee's Signature)
 Local No. _____ Address Rt 4 Box 480 (No.)
 Date Signed Sept. 10th, 1971 Boring (City) OREGON (State) 97009 (Street) (ZIP)

ADMINISTRATOR'S STATEMENT

- Effective date of employee's insurance _____, 19____ Class of Insurance _____
 Effective date of dependent's insurance _____, 19____ Class of Insurance _____
- Has insurance terminated? _____ (Yes or No) If yes, give date and reason _____, 19____ (Date)

DATED _____, 19____ By _____

(Handwritten signature and stamp)
TOTAL
\$2,300.00

RECEIVED
AUG 18 1971
G. GOODSELL

OREGON-WASHINGTON CARPENTERS
HEALTH AND WELFARE FUND
P.O. Box 3168
Portland, Oregon 97208

IMPORTANT! READ CAREFULLY

JUDICIARY COM
OREGON STATE ARCHIVES 3

Part 1—Employee completes in all cases.
Part 2—Attending physician or surgeon completes.
Attach itemized bills except those for services shown in "Attending Physician's Statement" in Part 2 on the reverse side of this form.

PART 1

EMPLOYEE COMPLETES IN ALL CASES

1. Employee Clayton M. Vermeulen Name of patient Beverly Vermeulen

2. Claim is for: Self Spouse Child Patient's Date of Birth 9-11-31 M F

3. Name of your spouse Beverly Name and address of employer John Raw
Linson

4. If claim is for dependent child give name and address of his or her employer.....

5. Is patient covered under any other group insurance? Yes..... No
If "Yes" give name and address of insurance company.....
Group Policy Number.....

6. If confined in a hospital, was a private single bed used? No 2 bed room
(Yes or No)

7. Is this patient's condition due to injury or illness arising out of his employment? Housewife only
(Yes or No)

8. Is loss due to accident?..... If yes, WHEN?....., 19..... A.M.
(Yes or No)..... P.M.

WHERE?.....
HOW?.....

IF PATIENT IS THE EMPLOYEE, ALSO COMPLETE LINES 9 and 10.

9. Date employee last worked prior to current disability....., 19.....

10. First date physically unable to work..... Date returned or available for work.....

I hereby certify that the foregoing statements, including any accompanying statements, are to the best of my knowledge and belief, true, correct, and complete. I hereby authorize any physician, hospital, or any pharmacy to furnish and disclose all known facts concerning this disability to The Union Labor Life Insurance Company. A copy or photocopy of this authorization shall be valid as the original.

Social Security No. 370-20-0241 Signed Clayton M. Vermeulen
Local No. 226 (Employee's Signature)
Address 8539 7th Allegheny Ave
Date Signed 8-14-71, 19..... Portland 97203 Ore.
(City) (Zone) (State)

ADMINISTRATOR'S STATEMENT

1. Effective date of employee's insurance....., 19..... Class of Insurance.....
Effective date of dependent's insurance....., 19..... Class of Insurance.....

2. Has insurance terminated?..... If yes, give date and reason....., 19.....
(Yes or No)..... (Date).....

DATED....., 19..... By.....

Handwritten signature and date: 8/14/71

AUG 23 1971

GOOSE

OREGON-WASHINGTON CARPENTERS HEALTH AND WELFARE FUND
P.O. Box 3168
Portland, Oregon 97208

IMPORTANT! READ CAREFULLY

Part 1—Employee completes in all cases.
Part 2—Attending physician or surgeon completes.
Attach itemized bills except those for services shown in "Attending Physician's Statement" in Part 2 on the reverse side of this form.

4
JUDICIARY COM
OREGON STATE ARCHIVES

PART 1

EMPLOYEE COMPLETES IN ALL CASES

1. Employee S. Peterson Name of patient

2. Claim is for: Self Spouse Child Patient's Date of Birth 4-30-70 M F

3. Name of your spouse 9434 N. E. S. Ryker Name and address of employer John Rawlins Portland Oregon

4. If claim is for dependent child give name and address of his or her employer

5. Is patient covered under any other group insurance? Yes No

If "Yes" give name and address of insurance company

Group Policy Number

6. If confined in a hospital, was a private single bed used? (Yes or No)

7. Is this patient's condition due to injury or illness arising out of his employment? (Yes or No)

8. Is loss due to accident? If yes, WHEN? WHERE? HOW?

Handwritten note: "Total 11 24 1971 A.M. P.M."

IF PATIENT IS THE EMPLOYEE, ALSO COMPLETE LINES 9 and 10.

9. Date employee last worked prior to current disability 19

10. First date physically unable to work Date returned or available for work

I hereby certify that the foregoing statements, including any accompanying statements, are to the best of my knowledge and belief, true, correct, and complete. I hereby authorize any physician, hospital, or any pharmacy to furnish and disclose all known facts concerning this disability to The Union Labor Life Insurance Company. A copy or photocopy of this authorization shall be valid as the original.

Social Security No. 543-50-7306 Signed [Signature] (Employee's Signature)

Local No. Address (No.) (Street) (City) (Zone) (State)

Date Signed 19 (City) (Zone) (State)

ADMINISTRATOR'S STATEMENT

1. Effective date of employee's insurance 19 Class of Insurance
Effective date of dependent's insurance 19 Class of Insurance

2. Has insurance terminated? (Yes or No) If yes, give date and reason (Date) 19

DATED 19 By

PART 1

EMPLOYEE COMPLETES IN ALL CASES

1. Employee Clarence Ethridge Name of patient Myrtle
 2. Claim is for: Self Spouse Child Patient's Date of Birth 8-12-14 M F
 3. Name of your spouse Myrtle Name and address of employer John Rankinson
9434 NE Schuler
 4. If claim is for dependent child give name and address of his or her employer
 5. Is patient covered under any other group insurance? Yes..... No
 If "Yes" give name and address of insurance company
 Group Policy Number
 6. If confined in a hospital, was a private single bed used?.....
 (Yes or No)
 7. Is this patient's condition due to injury or illness arising out of his employment? NO
 (Yes or No)
 8. Is loss due to accident? yes If yes, WHEN? July - 1, 1970 3 P.M.
 (Yes or No)
 WHERE? at home
 HOW? fell down basement steps

IF PATIENT IS THE EMPLOYEE, ALSO COMPLETE LINES 9 and 10.

9. Date employee last worked prior to current disability..... 19.....
 10. First date physically unable to work..... Date returned or available for work.....

I hereby certify that the foregoing statements, including any accompanying statements, are to the best of my knowledge and belief, true, correct, and complete. I hereby authorize any physician, hospital, or any pharmacy to furnish and disclose all known facts concerning this disability to The Union Labor Life Insurance Company. A copy or photocopy of this authorization shall be valid as the original.

Social Security No. 500-09-3882 Signed Clarence Ethridge
 Local No. 1020 (Employee's Signature)
 Address 5623 N Burrage
 Date Signed 8-19-1970 Portland 17 Oregon
 (City) (Zone) (State)

ADMINISTRATOR'S STATEMENT

1. Effective date of employee's insurance..... 19..... Class of Insurance.....
 Effective date of dependent's insurance..... 19..... Class of Insurance.....
 2. Has insurance terminated?..... If yes, give date and reason..... 19.....
 (Yes or No) (Date)

DATED..... 19..... By.....

JUN 23 1971

OREGON-WASHINGTON CARPENTERS HEALTH AND WELFARE FUND
P.O. Box 3168
Portland, Oregon 97208

IMPORTANT! READ CAREFULLY

Part 1—Employee completes in all cases.
Part 2—Attending physician or surgeon completes.
Attach itemized bills except those for services shown in "Attending Physician's Statement" in Part 2 on the reverse side of this form.

JUDICIARY DIV.
OREGON STATE ARCHIVES

PART 1

EMPLOYEE COMPLETES IN ALL CASES

- Employee Junior F. Collar Name of patient Sharlotte
 - Claim is for: Self Spouse Child Patient's Date of Birth 1-19-1964 M F
 - Name of your spouse Thelma Name and address of employer John Rawlinson
9434 N. E. Schuyler Portland, Oregon
 - If claim is for dependent child give name and address of his or her employer.....
 - Is patient covered under any other group insurance? Yes..... No.....
If "Yes" give name and address of insurance company.....
Group Policy Number.....
 - If confined in a hospital, was a private single bed used?.....
(Yes or No)
 - Is this patient's condition due to injury or illness arising out of his employment? no
(Yes or No)
 - Is loss due to accident? no If yes, WHEN?....., 19..... A.M.
(Yes or No) P.M.
- WHERE?.....
HOW?.....

IF PATIENT IS THE EMPLOYEE, ALSO COMPLETE LINES 9 and 10.

- Date employee last worked prior to current disability....., 19.....
- First date physically unable to work..... Date returned or available for work.....

I hereby certify that the foregoing statements, including any accompanying statements, are to the best of my knowledge and belief, true, correct, and complete. I hereby authorize any physician, hospital, or any pharmacy to furnish and disclose all known facts concerning this disability to The Union Labor Life Insurance Company. A copy or photocopy of this authorization shall be valid as the original.

Social Security No. 442-24-8059 Signed Junior F. Collar
Local No. 226 (Employee's Signature)
Address: 8523 N. Allogheny
(No.) (Street)
Date Signed 6-14, 1971 Portland 2 Oregon
(City) (Zone) (State)

ADMINISTRATOR'S STATEMENT

- Effective date of employee's insurance....., 19..... Class of Insurance.....
Effective date of dependent's insurance....., 19..... Class of Insurance.....
- Has insurance terminated?..... If yes, give date and reason....., 19.....
(Yes or No) (Date)

DATED....., 19..... By.....

* 87.005 DEFINITIONS FOR ORS. 87.005 TO 87.075
As used in ORS. 87.005 to 87.075

OREGON STATE ARCHIVES 7

EXHIBIT E
House Judiciary Committee
June 22, 1973

HB 3272

A BILL FOR AN ACT

2 Relating to lien for contributions to employe benefit plan;
3 amending ORS 87.005, 87.010 and 87.035.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

5 Section 1. ORS 87.005 is amended to read:

6 * 87.005 (1) "Improvement" includes any building, wharf, bridge,
7 ditch, flume, reservoir, well, tunnel, fence, street, sidewalk,
8 machinery, aqueduct and all other structures and superstructures,
9 whenever it can be made applicable thereto.

10 (2) "Construction" includes alteration, partial construction
11 and all repairs done in and upon any improvement.

12 (3) "Agent of the owner" includes any contractor, subcontractor,
13 architect, builder or other person having charge of the construction
14 of any improvement.

15 (4) "Labor performed" and "work done" shall include ^{labor or materials} contributions ^{of} is
16 required to be paid by agreement or otherwise into a fund of any
17 employee benefit plan.

18
19 Section 2. ORS 87.010 is amended to read:

20 (1) Any mechanic, artisan, machinist, builder, contractor,
21 lumber merchant, laborer, teamster, drayman or other person per-
22 forming labor upon, transporting or furnishing any material to be
23 used in the construction of any improvement, or trustees of an employee
24 benefit plan, shall have a lien upon the improvement for the labor,
25 transportation or material furnished at the instance of the owner
26 of the improvement or his agent.

27 (2) Any person who shall, at the request of the owner of a
28 lot, grade, fill in or otherwise improve the lot or the street
29 adjoining the lot, shall have a lien upon the lot for such work
30 done and materials furnished.

HB 3272 continued

1 Section 3. ORS 87.035 is amended to read:
2 87.035 Filing of claim for lien. Every original contractor,
3 within 60 days after the completion of his contract, ^{every} trustees
4 of an employee benefit plan, within 60 days after contributions
5 become due or ^{improvement} after completion of the [construction], whichever
6 [shall] first occur, and every mechanic, artisan, machinist, builder,
7 lumber merchant, laborer, or other person, except the original
8 contractor, claiming the benefit of ORS 87.005 to 87.075, within
9 ⁶⁰ [45] days after the completion of the construction, or after he has
10 ceased to labor thereon from any cause, or after he has ceased
11 to furnish materials therefor, shall file for recording with the
12 recording officer of the county in which the improvement, or some
13 part thereof, is situated, a claim containing a true statement of
14 his demand, after deducting all just credits and offsets, the name
15 of the owner, or reputed owner, if known, the name of the person
16 by whom he was employed or to whom he furnished the materials,
17 ^{the name of the person who owes contribution} or by whom contributions are owed and a description of the property
18 to be charged with the lien sufficient for identification, which
19 claim shall be verified by the oath of himself or of some other
20 person having knowledge of the facts.

HB 3272

A BILL FOR AN ACT

Relating to lien for contributions to employe benefit plan;
amending ORS 87.005, 87.010 and 87.035.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

Section 1. ORS 87.005 is amended to read:

(1) "Improvement" includes any building, wharf, bridge, ditch, flume, reservoir, well, tunnel, fence, street, sidewalk, machinery, aqueduct and all other structures and superstructures, whenever it can be made applicable thereto.

(2) "Construction" includes alteration, partial construction and all repairs done in and upon any improvement.

(3) "Agent of the owner" includes any contractor, subcontractor, architect, builder or other person having charge of the construction of any improvement.

(4) "Labor performed and work done (shall) include contributions required to be paid by agreement or otherwise into a fund of any employee benefit plan.

Labor or work for contract

Section 2. ORS 87.010 is amended to read:

(1) Any mechanic, artisan, machinist, builder, contractor, lumber merchant, laborer, teamster, drayman or other person performing labor upon, transporting or furnishing any material to be used in the construction of any improvement, or trustee of an employee benefit plan shall have a lien upon the improvement for the labor, transportation or material furnished at the instance of the owner of the improvement or his agent.

(2) Any person who shall, at the request of the owner of a lot, grade, fill in or otherwise improve the lot or the street adjoining the lot, shall have a lien upon the lot for such work done and materials furnished.

HB 3272 continued

1 Section 3. ORS 87.035 is amended to read:

2 87.035 Filing of claim for lien. Every original contractor,

3 within 60 days after the completion of his contract, ~~and~~ trustees

4 of an employee benefit plan, within 60 days after contributions

5 become^s due or ~~the~~ completion of the construction, whichever

6 shall first occur, and every mechanic, artisan, machinist, builder,

7 lumber merchant, laborer, or other person, except the original

8 contractor, claiming the benefit of ORS 87.005 to 87.075, within

9 45 days after the completion of the construction, or after he has

10 ceased to labor thereon from any cause, or after he has ceased

11 to furnish materials therefor, shall file for recording with the

12 recording officer of the county in which the improvement, or some

13 part thereof, is situated, a claim containing a true statement of

14 his demand, after deducting all just credits and offsets, the name

15 of the owner, or reputed owner, if known, the name of the person

16 by whom he was employed or to whom he furnished the materials,

17 or by whom contributions are owed and a description of the property

18 to be charged with the lien sufficient for identification, which

19 claim shall be verified by the oath of himself or of some other

20 person having knowledge of the facts.

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EQUITABLE SAVINGS



June 19, 1973

Honorable George F. Cole
Chairman, House Judiciary Committee
House of Representatives
Salem, Oregon 97301

EQUITABLE CENTER
1300 SOUTHWEST SIXTH AVENUE
PORTLAND, OREGON 97201

Re: House Bill 3272

Dear George:

I am advised that House Bill 3272 is scheduled for hearing before your Committee on Thursday afternoon. I regret that a previous commitment has me in Eastern Oregon and I cannot attend the hearing.

As you know, there is in existence an Advisory Committee on revising the Oregon statutory lien laws to hopefully make some order out of chaos in this legal area. The target for the new lien legislation is the 1975 session. This Advisory Committee operates under the auspices of the Law Improvement Committee, which has a statutory basis for its existence. I am privileged to serve as Vice-Chairman of the Advisory Committee, which is chaired by former Senator Donald Husband. The committee is made up of members involving business, labor and the public.


One of the committee's objectives is to provide uniformity of many of the provisions involving the creation or administration of our lien laws and, hopefully, avoid some of the technical loopholes which now exist.

House Bill 3272, as written, adds one more "set of lien rules" which affects the title to real property. For example, certain of the proposed provisions regarding filing and time periods do not correspond with those provisions of other types of liens affecting real property, such as labor and material liens.

I do not know whether the basic provisions involve matters of extreme urgency or must satisfy some great public need. If they do not, I would recommend that legislative action not be taken at this time and that the merits of the proposals be considered by the Lien Law Advisory Committee as a part of its overall review.

If any additional information is needed, or if you have any questions, please let me know.

Best regards,


William E. Love
President

WEL:ml