

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

February 11, 2005 Hearing Room B

9:00 A.M. Tapes 26 - 27

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Mike Schaufler, Vice-Chair

Rep. George Gilman

Rep. Paul Holvey

Rep. Derrick Kitts

Rep. Chip Shields

MEMBER EXCUSED: Rep. Sal Esquivel, Vice-Chair

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2371 – Public Hearing and Work Session

HB 2097 – Public Hearing

Introduction of Committee Measures – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 26, A

003	Chair Brown	Calls the meeting to order at 9:19 a.m. States that HB 2076 will not be heard. Opens the public hearing on HB 2371.
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HB 2371 – PUBLIC HEARING

009	Janet Adkins	Committee Administrator. Explains HB 2371. Submits and explains the HB 2371-1 amendments (EXHIBIT B).
030	John Brenneman	Lobbyist, Oregon Funeral Directors Association (OFDA). Introduces Scott Macy.
038	Scott Macy	Chair of the Funeral Service Agency, OFDA. Submits and reads from written testimony in support of HB 2371 (EXHIBIT A). Talks about how people pre-pay for their own funeral. Points out that the OFDA has administered the National Funeral Trust Service Master Trust (NFTSMT) which is valued at \$15 million to \$20 million. Discusses why the current monies that the trust has set aside for the costs of administering it are not enough. Says that HB 2371 will allocate adequate funds with which to manage the trust.
074	Rep. Holvey	Asks how many years the trust funds last.
076	Macy	Explains that the national average is seven years. States that there are trust funds that have been with them up to 20 years while others last a year or two.
080	Rep. Holvey	Asks if for a \$10,000 trust with a two percent, the return would be about \$1400 for seven years
086	Macy	Says roughly that is correct.
088	Chair Brown	

Asks what happens if the two percent of earnings is not enough to cover the costs of operating the fund and if it would decrease the principal of the trust.

- 092 Macy Explains that they have three scenarios that can happen. Explains the guaranteed and non-guaranteed funds. States if a person chooses to terminate a guaranteed or non-guaranteed fund within a year or two then the funeral home must return 100 percent of the money plus the interest that was gained. Discusses that with a pre-arranged funeral, even if the increase of the fund did not keep up with the increase in the funeral homes prices, the funeral home is still responsible for the costs if it is a guaranteed fund. States that 80 percent of the funerals are guaranteed.
- 112 Chair Brown States that currently 25 percent of the interest earned is being used to cover the cost of administering the fund and that HB 2371 would make it so that two percent of the trust could be used to cover the cost of administering it.
- 120 Macy Affirms that this is the correct scenario. Emphasizes that up to two percent can be used. Explains that it is a competitive market for trusts and advantageous to keep their costs as low as possible.
- 133 Rep. Shields Asks what the effect will be on the consumer of the prepaid insurance plans and whether families will have to pay.
- 138 Macy Says that he does not think that families will have to pay. Explains that if a family moves, the statute requires that they get the entire trust plus any interest that was earned. Notes that it will not affect those families. Says that the affected area is the prearranged funeral plans which are guaranteed and under statute the funeral home is required to pay any difference in cost. Says that his funeral home would allow at least the amount of money that went into a non-guaranteed trust to go back to the consumer.
- 160 Brenneman Explains that the two percent was made in collaboration with the Oregon Bankers Association.
- 169 Chair Brown Closes the public hearing on HB 2371 and opens the work session on HB 2371.

HB 2371 – Work Session

178 Rep. Kitts **MOTION: Moves to ADOPT HB 2371-1 amendments dated 2/9/05.**

VOTE: 6-0-1

EXCUSED: 1 – Esquivel

Chair Brown Hearing no objection, declares the motion CARRIED.

180 Rep. Kitts **MOTION: Moves HB 2371 to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 – Esquivel

Chair Brown The motion CARRIES.

REP. SHIELDS will lead discussion on the floor.

190 Chair Brown Closes the work session on HB 2371 and opens the public hearing on HB 2097.

HB 2097 – PUBLIC HEARING

194 Janet Adkins Committee Administrator. Explains HB 2097. Submits HB 2097-1 amendments (**EXHIBIT C**). Says that the amendments would include stump removal in the list of activities that do not require an arborist license under certain circumstances.

266 Michael A. Snyder Administrator, Landscape Contractors Board (LCB). Submits written testimony in support of HB 2097 (**EXHIBIT D**) and written testimony on behalf of Lyle J. Feilmeier in support of HB 2097 (**EXHIBIT E**). Explains how the current law works and the implications of HB 2097. Says that landscape contractors undergo extensive testing in order to gain a license.

313 Snyder Says that an arborist who wanted to plant a tree exceeding \$500 in value had to be registered with the Construction Contractors Board (CCB) and the LCB. Notes that HB 2097 would allow them to better meet customer need and streamline the process of getting a license.

Explains that the bill would require a test to receive the license through CCB. Notes the exemption for the arborists with International Society of Arboriculture (ISA) certification. Says HB 2097 would affect the roughly 900 arborists who are registered with the CCB. Mentions the arborist license would be granted by the LCB upon the successful completion of a standardized competency test and would adopt the ISA certification guidelines.

366	Rep. Schaufler	Asks if a contractor can still legally remove a stump if he is doing construction on the site.
370	Snyder	States that it is correct.
373	Rep. Kitts	Asks if you can remove a stump if you own the property.
376	Snyder	Says that you can for your own property. Notes that HB 2097 puts the insurance requirement on the company, not the individual, for arborists.
402	Bill Cross	Oregon Landscape Contractors Association (OLCA). Introduces Joe Lymp. Submits written testimony in support of HB 2097 (EXHIBIT F).

TAPE 27, A

001	Joe Lymp	Legislative Committee Chair, OLCA and Owner of Deschutes Environmental Services. Speaks in full support of HB 2097. Likes that with the passage of HB 2097, arborist licenses would only be under the LCB.
016	Rep. Holvey	Asks about the construction contractor who performs landscaping if the work that is performed is under \$2500 dollars.
023	Lymp	Believes that the individual does not have to have a landscape license if the work is under \$2500.
026	Rep. Holvey	Reiterates the question in a slightly different way and asks if the \$2500 is the price of the foliage being put on the site.
033	Snyder	Explains that landscaping requires a license by the LCB. Confirms that there is a landscaping license exemption for those that are construction contractor under ORS 701 when the contractor has a

contract to build a house with the owner of the property. States that the general contractor can perform up to \$2500 of work for that house. Says that the \$2500 is connected to the Consumer Price Index and when the last one adjusted in 2003, the limit was changed to \$3000 of work. Says if the house is up for sale then the consumer has to hire a landscaper. Admits that past confusion has led to litigation cost for the LCB.

077	Rep. Holvey	Asks about retaining walls and a big water feature and if a general contractor has to have a Landscape Contractors License to do these sorts of things.
084	Snyder	Says that construction contractors who are licensed do not have to have an additional license to do that type of work. Explains that they are not required to have a landscape contractor license.
089	Rep. Kitts	Asks about whether developers of subdivisions can put in grass seed and bark dust in very small yards.
100	Snyder	Says that a construction contractor could not do that landscaping work. Explains that the work is considered to be under the jurisdiction of landscape contracting for plantings of any type and developers can only do a specific amount under specific conditions.
114	Ray Carter	General Manager, General Reservists in Clackamas. Submits and summarizes written testimony in support of HB 2097 (EXHIBIT G). Emphasizes the need for competency testing. Says that even a small landscape needs someone who is competent in tree planting and other landscaping tasks.
153	Mario Vaden	Contractor, MD Vaden, Washington County. Member, CCB. Believes in the general concept of HB 2097. Explains that from a technology point of view landscapers and arborists need to be blended, because they are nearly identical. Believes that the two licenses for arborist and landscapers should be issued together. Talks about the \$2500 exemption for the Construction Contractors Licenses which are issued by the CCB. Says that the big picture is to get the arborist licensed under the same board as the landscapers. Believes that this process should HB 2097 pass is attainable and affordable
210	Rep. Schaufler	Asks if the cities are monitoring where trees are planted and doing a good job of regulating them.
221	Vaden	

Explains that cities have always let one thing allow them to fail at regulating trees. Talks about the different trees that have been planted and the problems cities are facing. Believes that cities are making a good effort, but there are still problems.

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| 266 | Paul Ries | Manager, Urban and Community Forestry Program, Oregon Department of Forestry. Submits and summarizes written testimony in support of the HB 2097 (EXHIBIT H). Says that they try to help cities and urban areas pick the correct trees and properly maintain them. Believes that the bill will help small cities and the competency test will help improve tree health in urban areas. |
| 282 | Rep. Schaufler | Explains that a law needs to be made about trees that tear up sidewalks and concrete work. |
| 326 | Rep. Holvey | Asks for agricultural guidelines. |
| 329 | Ries | Emphasizes that a part of the problem is that people do not know the standards and guidelines for tree planting. |
| 339 | Rep. Schaufler | Reiterates the importance of trees in urban areas. |
| 346 | Ries | Says that one of the benefits of HB 2097 is that homeowners are able to contract with one person instead of two people. |
| 354 | Rep. Schaufler | States that he has no problem with the bill. |
| 371 | Chair Brown | Closes the public hearing on HB 2097 and opens a work session for the purpose of introducing committee bills. |

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

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| 372 | Chair Brown | States that LC 1248 (EXHIBIT I) and LC 1656 (EXHIBIT J) are before the committee for introduction as committee bills. |
| 273 | Rep. Schaufler | MOTION: Moves LC's: 1248, 1656 BE INTRODUCED as committee bills. |

VOTE: 6-0-1

EXCUSED: 1 – Esquivel

Chair Brown Hearing no objection, declares the motion CARRIED.

382 Chair Brown Adjourns the meeting at 10:08 a.m.

EXHIBIT SUMMARY

- A. **HB 2371, written testimony, Scott Macy, 3 pp**
- B. **HB 2371, -1 amendments, staff, 1 p**
- C. **HB 2097, -1 amendments, staff 1 p**
- D. **HB 2097, written testimony, Michael Snyder, 4 pp**
- E. **HB 2097, written testimony, Michael Snyder, 1 p**
- F. **HB 2097, written testimony, Bill Cross, 1 p**
- G. **HB 2097, written testimony, Ray Carter, 1 p**
- H. **HB 2097, written testimony, Paul Ries, 1 p**
 - I. **Introductions, LC 1248, staff, 6 pp**
 - J. **Introductions, LC 1656, staff, 16 pp**