

**HOUSE COMMITTEE ON**  
**BUSINESS, LABOR, AND CONSUMER AFFAIRS**

**March 02, 2005 Hearing Room B**

**8:30 A.M. Tapes 44 - 45**

**MEMBERS PRESENT: Rep. Alan Brown, Chair**

**Rep. Sal Esquivel, Vice-Chair**

**Rep. Mike Schaufler, Vice-Chair**

**Rep. Paul Holvey**

**Rep. George Gilman**

**Rep. Derrick Kitts**

**Rep. Chip Shields**

**STAFF PRESENT: Janet Adkins, Committee Administrator**

**Katie Howard, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2395 – Work Session**

**HB 2460 – Public Hearing and Work Session**

**HB 2461 – 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
<b>TAPE 44, A</b>		
003	Chair Brown	Calls the meeting to order at 8:36 a.m. Opens the work session on HB 2395

#### **HB 2395 – WORK SESSION**

006	Janet Adkins	Committee Administrator. Explains HB 2395. Submits the -1 amendments ( <b>EXHIBIT A</b> ).
026	Rep. Kitts	<b>MOTION: Moves to ADOPT HB 2395-1 amendments dated 3/1/05.</b>
029		<b>VOTE: 7-0-0</b>
	Chair Brown	<b>Hearing no objection, declares the motion CARRIED.</b>
031	Rep. Kitts	<b>MOTION: Moves HB 2395 to the floor with a DO PASS AS AMENDED recommendation.</b>
038		<b>VOTE: 7-0-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Brown	<b>The motion CARRIES.</b>
		<b>REP. MACPHERSON will lead discussion on the floor.</b>
042	Chair Brown	Closes the work session on HB 2395. Opens the public hearing on HB 2460.

#### **HB 2460 – PUBLIC HEARING**

044	Janet Adkins	Committee Administrator. Explains HB 2460.
059	Chair Brown	Mentions that HB 2460 is sponsored by Rep. Gilman

062	Rep. Gilman	Speaks in support of HB 2460.
070	Jan Berman	County Clerk, Crook County and President, Oregon Association of County Clerks. Speaks in support of HB 2460. States that she has not done a notary certification during the 11 years she has been a county clerk.
084	Jan Coleman	Yamhill County Clerk. Speaks in support of HB 2460. Submits written testimony in support of HB 2460 ( <b>EXHIBIT B</b> ). States that she has done several notary certifications. Believes that the notary certifications were done prior to the last decade. Explains that there is no need for the law.
111	Rep. Esquivel	Asks if county clerks physically kept the notaries' books.
113	Berman	States that the county clerks did not keep notary books. Talks about the certification process. Believes that the statute was repealed in 1983.
123	Adkins	Asks if notaries came in to get the books certified.
126	Coleman	Answers that notaries could still come in and be on the record. Says that the statute was repealed in 1990.
132	Rep. Holvey	Asks what the term of a notary is.
135	Berman	States that the term of a notary is four years and that they then have to recertify.
140	Chair Brown	Closes the public hearing on HB 2460 and opens the work session on HB 2460.

#### **HB 2460 – WORK SESSION**

143	Rep. Esquivel	<b>MOTION: Moves HB 2460 to the floor with a DO PASS recommendation.</b>
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149		<b>VOTE: 7-0-0</b>
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	<b>AYE: In a roll call vote, all members present vote Aye.</b>
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**Chair Brown**                      **The motion CARRIES.**

**150**                      **Rep. Esquivel**                      **MOTION: Moves HB 2460 be placed on the CONSENT CALENDAR.**

**151**                                              **VOTE: 7-0-0**

**Chair Brown**                      **Hearing no objection, declares the motion CARRIED.**

**153**                      Chair Brown                      Closes the work session on HB 2460. Opens the public hearing on HB 2461.

**HB 2461 – PUBLIC HEARING**

**155**                      Janet Adkins                      Committee Administrator. Explains HB 2461. Submits a schedule of the 2005 notary public seminars. **(EXHIBIT C)**

**176**                      Rep. Gilman                      Speaks in support of HB 2461.

**186**                      Dee Berman                      Crook County Clerk. Submits written testimony in support of HB 2461 **(EXHIBIT D)**. Discusses her time as a notary and how inadequate the process to license notaries is. Talks about the classes provided for notaries and explains that no one knew that they were liable for the documents that they are notarizing. Notes that improper notarization causes county clerks to reject the document.

**220**                      Rep. Schaufler                      Asks what a notary does and what the liability of a notary is and how much training and testing is. Notes that indemnifying may be a better course of action for notaries.

**231**                      Tom Wrosch                      Secretary of State's Office. Submits written testimony in support of HB 2461 **(EXHIBIT E)**. States that notaries do many things including: witnessing a signature, administer oaths, and certify copies of documents. Says that important documents are certified by notaries and a notary is liable for any damages that may occur as a result of improper notarization. Notes that an employer can be held responsible for notaries if the notary is under their employment.

**271**                      Wrosch                      Asserts that throughout the country notaries have never been indemnified, because someone needs to be held responsible for the actions in which the notary partakes. Says that notaries are indemnified if they perform their duties in the same manner that a

person of average intelligence would. States that many notaries do not perform their duties properly.

- 291 Rep. Schaufler Asks for a real life example of an improper notarization and asks how frequently the problem occurs.
- 297 Jan Coleman County Clerk, Yamhill County. Submits written testimony in support of HB 2461 (**EXHIBIT H**). Talks about a notary who gave notarization via the telephone.
- 307 Rep. Esquivel Asks what notary has had to buy a mortgage.
- 318 Wrosch Responds that he cannot tell Rep. Esquivel when a notary has had to buy a mortgage. Talks about how a notary was sued unsuccessfully since the notary properly recorded the event. Says that some notaries have bond requirements in other states. States that the Secretary of State's Office does not get statistics on when notaries are sued.
- 345 Rep. Esquivel Asks if improper notarizations get kicked back for recordation of a document. States that he has not heard or witnessed the "doom and gloom" scenario that the witnesses have discussed.
- 351 Berman Says that a week and a half ago an improper notarization came into the Cook County Clerk's office. States that they give the document back to the notary that recorded it improperly. Gives further examples of improper notarizations.
- 387 Wrosch Says that in 1989 the open book test for notaries was established. Talks about how the open book test does not work. Says many notaries do not know what they are supposed to be doing.

#### **TAPE 45, A**

- 001 Wrosch Discusses who comes to the exams and how notaries want the classes to be mandatory. Notes North Carolina, Florida, California, and Pennsylvania have adopted educational requirements for notaries. Emphasizes his support of HB 2461.
- 020 Coleman States that many employers do not invest time and training in their employees who become notaries. Emphasizes that three hours of training in four years is a small requirement. Talks about how someone in the workplace can be certified to become a trainer for notaries. Explains how HB 2461 will create accountability.

047	Rep. Kitts	Asks how long there has been notaries in Oregon
049	Wrosch	Believes that it has been since the creation of the state.
056	Rep. Kitts	Mentions example of providing notarization over the phone and asks if the person knew it was wrong.
059	Coleman	Says that the person was an attorney.
062	Rep. Kitts	States that the person most likely knew that what they were doing was wrong and believes that even after taking the class the attorney would have still known it was wrong. Shares that he does not think that a three hour class will solve this problem. Believes that the case has not been made that a four hour class will help make notarizations better. States that he would like to see a fine for fraudulent notarizations.
091	Rep. Esquivel	Asks how three hours would change the situation where someone put a fraudulent date on the document.
096	Berman	Says that the three hour training is for honest notaries and it is not for those who are going to commit fraud. Asserts that the educational class would have helped her when she was a notary. Mentions that the test to obtain a notary's license does educate notaries about ORS 194 but not about other statutes that apply to their work.
119	Chair Brown	Summarizes the witnesses' testimony.
124	Rep. Esquivel	Asks how the educational requirement will be enacted.
128	Wrosch	Says that they have explored many different avenues for administering and completing the educational requirement. States that there are providers who will educate notaries. Talks about the seminars they have all over the state ( <b>EXHIBIT C</b> ). Mentions other states that have tremendous success with similar laws. Addresses that HB 2461 is not to stop criminal intent but instead to educate notaries.
162	Rep. Holvey	Speaks in support of HB 2461. Says that the issues facing notaries is not always cut and dry. Asks about the "not to exceed five dollars" in section three of HB 2461. Shares concerns that in the future five dollars may not cover the cost.

176	Wrosch	Believes that the five dollar fee will work. States that the five dollar fee is to cover the materials cost and that the online tutorial will help curb costs. Expresses desire not to put a financial burden on notaries.
210	Chair Brown	Asks how many notaries there are in Oregon and if they charge a fee.
212	Wrosch	States that there are 46,000 notaries. Says that they may charge a fee of up to five dollars if they have not signed the fee waiver form. Notes that many notaries do not charge a fee.
226	Chair Brown	Requests an amendment. Closes the public hearing on HB 2461. Opens the work session for the purpose of introducing committee measures.

### **INTRODUCTION OF COMMITTEE MEASURE – WORK SESSION**

230	Chair Brown	Submits LC 3087 and LC 1782 (EXHIBITS G and I).
232	Rep. Kitts	<b>MOTION: Moves LC's: 3087, 1782 BE INTRODUCED as committee bills.</b>
243		<b>VOTE: 7-0-0</b>
	Chair Brown	<b>Hearing no objection, declares the motion CARRIED.</b>
247	Janet Adkins	States that the Senate's General Government Committee heard HB 2214. Says that it is the bill that was previously heard by this committee. Mentions that the groups involved have a list of amendments, but they did not have the amendments yesterday so it did not pass out of committee. States that there is still an issue with the Energy Saving Performance Contracts. Says that Steven Kafoury asked for another week to work on the amendments related to that issue.
268	Chair Brown	Closes the work session for the purpose of introducing committee measures. Adjourns the meeting at 9:25 a.m.

### **EXHIBIT SUMMARY**

- A. **HB 2395, -1 amendments, staff, 1 p**
- B. **HB 2460, written testimony, Jan Coleman, 1 p**
- C. **HB 2461, schedule, staff, 1 p**
- D. **HB 2461, written testimony, Dee Berman, 1 p**
- E. **HB 2461, written testimony, Tom Wrosch, 2 pp**
- F. **No exhibit**
- G. **Introductions, LC 3087, staff, 1 p**
- H. **HB 2461, written testimony, Jan Coleman, 1 p**
- I. **Introductions, LC 1782, staff, 24 pp**