

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

March 21, 2005 Hearing Room B

8:30 A.M. Tapes 64 - 65

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 2005 – Public Hearing and Work Session

HB 2527 – Work Session

HB 2117 – Work Session

HB 3324 – Public Hearing and Work Session

HB 2615 – Public Hearing

HB 2372 – Public Hearing and Work Session

Introduction of Committee Bills – 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 64, A

003	Chair Brown	Calls the meeting to order at 8:38 a.m. Opens the public hearing on HB 2005. Mentions that HB 2005 has the exact same wording as HB 2007, which was heard on March 16, 2005.
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HB 2005 – PUBLIC HEARING

010	Janet Adkins	Committee Administrator. Explains HB 2005. References the fiscal impact statement (EXHIBIT A).
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025	Chair Brown	Closes the public hearing on HB 2005 and opens the work session on HB 2005
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HB 2005 – WORK SESSION

028	Rep. Kitts	MOTION: Moves HB 2005 to the floor with a DO PASS recommendation.
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032		VOTE: 6-0-1
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AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 – Schaufler

Chair Brown	The motion CARRIES.
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Note: Please see tape 64 A, page 2 of this tape log for Rep. Schaufler's vote.

036	Rep. Esquivel	MOTION: Moves HB 2005 be placed on the CONSENT CALENDAR.
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038		VOTE: 6-0-1
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EXCUSED: 1 – Schaufler

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

Note: Please see tape 64 A, page 2 of this tape log for Rep. Schaufler's vote.

040 Chair Brown Closes the work session on HB 2005 and opens the work session on HB 2527.

HB 2527 – WORK SESSION

043 Janet Adkins Committee Administrator. Explains HB 2527.

060 Don Miner Oregon Manufactured Housing Association. Speaks in support of HB 2527. States that there are some issues with the bill that can be dealt with in the Ways and Means Committee.

070 John Brenneman Manufactured Community Housing of Oregon. Wants to make the move with Parks??? (Is this right?) Comfortable with HB 2527 being moved to the committee on Ways and Means.

080 Mark Long Administrator, Building Codes Division. States that HB 2527 needs amendments. Believes that there are pieces of the manufactured housing industry that has some codes that the division is not responsible for.

095 Rep. Kitts MOTION: Moves HB 2527 WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means.

100 VOTE: 7-0-0

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

Chair Brown The motion CARRIES.

104 Chair Brown Closes the work session on HB 2527 and opens the work session on HB 2005 for the purpose of allowing Rep. Schaufler to vote.

HB 2005 – WORK SESSION

109 Rep. Kitts **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. SCHAUFLEER to BE RECORDED as voting AYE on the motion to move HB 2005 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.**

112 **VOTE: 7-0-0**

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

Note: Please see tape 64 A, page 1 of this tape log for the original vote on HB 2527.

115 Chair Brown Closes the work session on HB 2005 for the purpose of allowing Rep. Schaufler to vote. Opens the work session on HB 2117.

HB 2117 – WORK SESSION

117 Janet Adkins Committee Administrator. Explains HB 2117. References – 3 amendments (**EXHIBIT B**) and fiscal statement (**EXHIBIT C**).

135 Chair Brown Asks if the -1 amendments are in the -3 amendments.

139 Adkins Believes that the -1 amendments are in the -3 amendments.

139 Rep. Schaufler States that he is o.k. with HB 2117. Says that the genealogists were never in HB 2117.

150 Rep. Kitts Wants to know for certain that -1 amendments are in -3 amendments.

155 Adkins Clarifies that the -1 amendments are not being adopted, because the -3 amendments delete the section that the -1 amendments were changing.

162 Chair Brown States why the -1 amendments are not in the – 3 amendments.

170 Adkins Indicates that the amendments do not change the fiscal statement.

174 Rep. Schaufler **MOTION: Moves to ADOPT HB 2117-3 amendments dated 03/01/05.**

179 VOTE: 7-0-0

Chair Brown Hearing no objection, declares the motion CARRIED.

181 Rep. Schaufler MOTION: Moves HB 2117 to the floor with a DO PASS AS AMENDED recommendation.

186 VOTE: 7-0-0

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

Chair Brown The motion CARRIES.

REP. SCHAUFLER will lead discussion on the floor.

191 Chair Brown Closes the work session on HB 2117 and opens the public hearing on HB 3324

HB 3324 – PUBLIC HEARING

210 Janet Adkins Committee Administrator. Explains HB 3324.

235 Tim Martinez Oregon Bankers Association (OBA). Speaks in support of HB 3324. Talks about the history of why local banks were not included in past limited liability company (LLC) legislation. Says that a LLC does allow for the benefits of corporate tax advantage but a company has to pay a nine percent income tax.

269 Fred Postlewait President, Oregon Coast Bank. Submits and reads written testimony in support of HB 3324 (**EXHIBIT D**). Talks about the history of Oregon Coast Bank. Discusses the sale of the Lincoln Security Bank. Notes the need for the modernization of banks.

320 Postlewait Continues to read from written testimony (**EXHIBIT D**). Talks about people who have been involved with the Oregon Coast Bank. Notes that the Oregon Coast Bank benefits the community. Mentions the history of banks that are sub-S corporations.

370 Postlewait Continues to read from written testimony (**EXHIBIT D**). Discusses what LLCs are doing on the federal level. States that they prefer to stay a state chartered bank.

400 Kenneth Sherman Counsel, OBA. Submits and reads from written testimony in support of HB 3324 (**EXHIBIT E**). Talks about the history of the Oregon Bank Act.

TAPE 65, A

001 Sherman Continues to read from written testimony (**EXHIBIT E**). Talks about LLCs and other states that have a similar legislation. References the section by section analysis of HB 3324 (**EXHIBIT E, Page 2 and 3**)

026 Chair Brown Asks if federal banks can be chartered as LLCs.

028 Sherman States that federal banks cannot be chartered as LLCs. Notes that it would take a change by the comptroller.

036 Rep. Shields Asks if Oregon banks currently pay a six percent tax and the shareholders pay tax on the income generated.

039 Martinez Says that currently banks can pay as much as six percent for the corporate tax and the shareholders pay taxes only on their dividends. States that this would eliminate the six percent tax and substitute it with a nine percent individual tax.

046 Rep. Shields Asks if LLC banks would be similar in structure to S corporations. Asks if it could decrease the State's revenue.

051 Martinez Says that it is similar to an S corporation. States that they do not expect revenue to the state to decrease.

054 Postlewait States that the state would suffer little if anything in terms of revenue, because the Oregon Coast Bank has not paid out dividends.

062 Chair Brown Talks about his personal experience with an LLC and says that he has to pay taxes for each fiscal tax year. Says that a C-corporation has to pay taxes only when dividends are paid to stockholders.

071 Rep. Schaufler Asks if it will help small, local banks stay competitive in the market.

078 Postlewait Talks about how few young people are hired to work at small, local banks, because those banks see their existence timeline as approximately five years. States that it takes a lot of time to become a

banker. Discusses how opening up banks that are LLCs and S corporation will benefit small communities. Notes that the Oregon Coast Bank has made over \$100 million in loans to small businesses in their community.

- 107 Rep. Schaufler States that he is concerned about the loss of revenue, but says that the revenue will get to the state eventually by helping the smaller communities.
- 116 Martinez Says that they made the amendments that the Federal Deposit Insurance Corporation (FDIC) wanted.
- 121 Rep. Holvey States that it is hard for him to believe that there would be no revenue impact and hopes that the revenue statement will come forward. Asks why they are not waiting for the IRS before moving forward.
- 132 Sherman Says that the Internal Revenue Service (IRS) currently recognizes LLCs. States that the only part that needs to be changed is the part that is based on the FDIC's old decision.
- 148 Rep. Holvey Reads from the written testimony (**EXHIBIT E**). Asks why we are not waiting for the IRS to come up with a bank code so that banks can be eligible for partnership treatment.
- 160 Sherman Believes that the IRS will change within the next few months, and if they wait, the legislation proposed in HB 3324 would not go through until the 2007 Legislative Session.
- 169 Martinez Says that the LCC bank will be paying tax from day one. Believes that the Revenue Office will not be able to give a good number on the revenue impact.
- 180 Rep. Kitts Speaks in support of HB 3324 and explains how HB 3324 will help increase revenue by increasing income and therefore increasing income taxes that go to the state. Commends the panel for their work on HB 3324. Believes that HB 3324 will keep banks local and put money into small, local businesses.
- 198 Adkins Talks about her conversation with the Revenue Office. Offers to provide more information from the Revenue Office.
- 211 Chair Brown

Discusses stock ownership in the Bank of America's stock and other national banks. States that the dividends from those stocks would not be paid for the most part by Oregon residents.

- 227 Rep. Shields States that he has concerns about HB 3324. Asks if there is anything in HB 3324 stopping a national bank from buying shares in a small local banks and then have the tax advantage of LLCs.
- 235 Sherman Indicates that he does not believe that anything in the law prohibits that action.
- 249 Rep. Schaufler Asks if the national bank would still be paying income tax on the profits made by the bank.
- 253 Sherman Responds that all of a LLC's profit flow to its members and all of the income generated is taxed under the parent corporation.
- 262 Rep. Schaufler Says that, as with Enron, if it is generated in the state, it stays in the state.
- 267 Sherman Says that it is important to keep business local.
- 272 Martinez Clarifies that the national corporation would end up paying more taxes in Oregon if they became an LLC.
- 274 Rep. Shields States that his understanding of the laws means that the national bank would have to pay the income in the state where they own the shares.
- 280 Martinez States that there would be no benefit for a national bank to have an LLC in Oregon.
- 282 Chair Brown Asks what the difference between LLCs and Credit Unions' members is.
- 294 Postlewait Talks about how a national bank could buy an LLC, but believes that they would convert it back to a corporation. Says that HB 3324 will help small, local banks better please their members. Notes that the shareholders are almost all from Oregon except for several whom he believes are friends of the Oregon shareholders. States that his bank is the vehicle for many young people in their community to undertake capital-intensive ventures.

340 Chair Brown Reiterates question.

344 Sherman Says that there is not a huge difference between a LLC bank and a credit union.

355 Chair Brown Asks about the difference between a credit union's profits and a LLC's profits.

363 Sherman Responds that he is not an expert on credit union taxation law. Says that the member is taxed on the profits.

379 Chair Brown Closes the public hearing on HB 3324 and opens the work session on HB 3324.

HB 3324 – WORK SESSION

385 Rep. Kitts **MOTION: Moves HB 3324 to the floor with a DO PASS recommendation.**

392 Rep. Kitts Speaks in support of HB 3324 and says that this bill will create jobs in the state of Oregon.

406 Rep. Shields States that he would like more time to become comfortable with HB 3324.

TAPE 64, B

001 Rep. Kitts States that Rep. Shields brings up a good point and the revenue impact is a concern of his. Asks what more the Revenue Office can do to get information.

011 Adkins Says that she can seek more information from Revenue.

014 Chair Brown Believes that HB 3324 will have a positive impact on state revenue and details how income will come into the state.

024 Rep. Kitts States that he is going to ask the Revenue Office for more information.

028 Chair Brown

States a conflict of interest, because he owns shares in local banks in Oregon.

036

VOTE: 5-2-0

AYE: 5 - Esquivel, Gilman, Kitts, Schaufler, Brown

NAY: 2 - Holvey, Shields

Chair Brown

The motion CARRIES.

REP. BROWN will lead discussion on the floor.

042

Chair Brown

Closes the work session on HB 3324 and opens the public hearing on HB 2615.

HB 2615 – PUBLIC HEARING

046

Janet Adkins

Committee Administrator. Explains HB 2615.

062

Gordon Allen

Retirement Program Manager, Oregon Health and Science University (OHSU). Submits and reads from written testimony in support of HB 2615 (**EXHIBIT F**). Talks about the background of OHSU's retirement plan. Mentions how the amendments to ORS would benefit OHSU.

110

Chair Brown

Asks if OHSU teachers have the option of being in a 401K-type program in place of the Public Employee Retirement System (PERS).

114

Allen

Says that OHSU employees can choose PERS or an alternative retirement plan.

116

Rep. Kitts

Asks if there will still be no revenue and fiscal impact if HB 2615 becomes retroactive.

121

Allen

States that they see little revenue impact, because it only affects a small number of employees.

122

Rep. Kitts

States that the fiscal needs to be redone if HB 2615 has been amended.

130

Allen

Clarifies that the reason for looking at the August 29, 2003 date was because of the accrual of benefits for 2004.

138 Chair Brown Closes the public hearing on HB 2615 and opens the public hearing on HB 2372.

HB 2372 –PUBLIC HEARING

143 Janet Adkins Committee Administrator. Explains HB 2372 and references the -1 amendments and the hand-engrossed version (**EXHIBIT G**).

157 John Brenneman Recreational Vehicle Association. Speaks in support of HB 2372 with the -1 amendments. Talks about how HB 2670 (2003) was patterned after a national model to protect dealers. States that they had to negotiate with some dealers who did like the way the bill was written.

204 Shawn Miller Oregon Recreational Vehicles Association. Speaks in support of HB 2372 with the -1 amendments. States the state of Oregon leads the industry when it comes to recreational vehicles. Talks about lines eight and ten with the -1 amendments. Talks about how HB 2372 affects the buybacks of recreational vehicles.

243 Rep. Schaufler Asks what the dealer does with the objects that they buyback.

245 Brenneman Says that it sits on the shelf and may be used for parts.

251 Chair Brown Closes the public hearing on HB 2372 and opens the work session on HB 2372.

HB 2372 – WORK SESSION

257 Janet Adkins Committee Administrator. Says that it is amazing that this is the only amendment to HB 2670 (2003). Praises John Brenneman and Shawn Miller for their work.

263 Rep. Schaufler Thanks the House Business Committee for the 2001 session.

267 Rep. Kitts **MOTION: Moves to ADOPT HB 2372-1 amendments dated 03/16/05.**

EXHIBIT SUMMARY

- A. **HB 2005, fiscal testimony, staff, 1 p**
- B. **HB 2117, -3 amendments, staff, 3 pp**
- C. **HB 2117, fiscal statement, staff 2 pp**
- D. **HB 3324, written testimony, Fred Postlewait, 3 pp**
- E. **HB 3324, written testimony, Kenneth Sherman, 3 pp**
- F. **HB 2615, written testimony, Gordon Allen, 1 p**
- G. **HB 2372, -1 amendments, staff, 3 pp**
- H. **Introductions, LC 3484, staff, 1 p**