

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

April 18, 2005 Hearing Room B

8:30 A.M. Tapes 93 - 95

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 2603 – Work Session

HB 3344 – Public Hearing

HB 2949 – Public Hearing

HB 3080 – Public Hearing

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 93, A

003	Chair Brown	Calls the meeting to order at 8:45 a.m. Opens the work session on HB 2603.
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HB 2603 – WORK SESSION

007	Janet Adkins	Committee Administrator. Explains HB 2603. Submits the fiscal statement and the -1 and -2 amendments (EXHIBIT A, B, and C) . Mentions the Secretary of State’s estimate of the fiscal impact (EXHIBIT D) .
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046	Chair Brown	Asks if the -2 amendments remove Pioneer Cemeteries from the fee process.
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048	Adkins	States that the -2 amendments will. Says that the language pursuant to the cemetery starts on line 17.
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054	Rep. Donna Nelson	House District 24. Speaks in support of HB 2603. Thanks the Secretary of State for his support.
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080	Rep. Kitts	Explains the -1 amendments (EXHIBIT A) .
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093	Adkins	States that the -1 amendments do not make any changes to the non-profits’ status. Says that the changes were incorporated into the -2 amendments.
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098	Chair Brown	Asks what the difference between the -1 and -2 amendments is.
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101	Rep. Schaufler	Believes that the negative revenue impact would be around \$8 million with the -2 amendments. Understands the concerns about small businesses paying fees. Asks how the legislature can pass HB 2603 in light of current revenue constraints.
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117	Rep. Nelson	Says that new revenue can come from employees. States that if we stopped unfunded mandates it would provide \$500 million to schools.
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135	Rep. Schaufler	Asks if unfunded mandates include the No Child Left Behind Act.
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138	Rep. Nelson	States that “we haven’t gotten to Washington yet, but as soon as the session is over we will be there”.
143	Rep. Kitts	Mentions that the -2 amendments are more reflective of past conversations.
153	Rep. Nelson	Notes that the -2 amendments address Rep. Kitts’ original concerns.
154	Rep. Kitts	Clarifies what the -2 amendments do.
161	Adkins	States that nonprofits will not have an initial filing fee of \$20.
165	Rep. Kitts	MOTION: Moves to ADOPT HB 2603-2 amendments dated 04/15/05.
167		VOTE: 7-0-0
	Chair Brown	Hearing no objection, declares the motion CARRIED.
171	Rep. Kitts	MOTION: Moves HB 2603 with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.
175	Rep. Shields	Asks if the fiscal impact of \$8 million will still exist with the -2 amendments.
177	Adkins	Says that the fiscal impact could be higher with the -2 amendments.
187	Rep. Schaufler	Talks about how he wants to see jobs materialize because of HB 2603. Says that he is concerned about the decrease in revenue to the state.
201	Rep. Kitts	Believes that HB 2603 is a good business bill.
221	Rep. Holvey	Speaks in opposition to HB 2603. Mentions the education and healthcare systems. Talks about taxes being shifted to wage earners and believes HB 2603 will increase the amount of taxes wage earners pay.
232	Rep. Shields	

Speaks in opposition to HB 2603. Indicates that people in his district would rather keep the \$50 fee than have school programming cut.

243 Rep. Schaufler Mentions the cuts to the General Fund and how auditors should be funded. States that many activities can occur in the state government to raise more revenue.

264 Chair Brown Talks about how the fees were raised when the funds were down by \$1 billion during the 2003 session. Says that revenue is up and now it is time to take a look at reducing some of the fees.

275 **VOTE: 5-2-0**

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

NAY: 2 - Holvey, Shields

Chair Brown The motion CARRIES.

282 Chair Brown Closes the work session on HB 2603. Opens the public hearing on HB 3344.

HB 3344 – PUBLIC HEARING

290 Janet Adkins Committee Administrator. Explains HB 3344.

310 Rep. Donna Nelson House District 24. Speaks in support of HB 3344. Talks about Col. Ken Reusser's situation and his loss of funds due to fraudulent action. Says that financial institutions should have to abide by state statutes.

391 Eugene Schoenheit Oak Grove. Submits written testimony in support of HB 3344 **(EXHIBIT E)**. Talks about problems that veterans have.

TAPE 94, A

003 Schoenheit Notes the difficulty that senior citizens and disabled individuals have when they depend on others to handle their finances. Points out that the bank does not have to respond to a person if the check is under \$5,000. Indicates that HB 3344 will restore the original intent of Oregon statutes. Wants to get rid of variation by agreement, which means that banks do not have to follow state laws. States that bank statement delays also add to the problem.

057	Ken Reusser	Speaks in support of HB 3344. Talks about his service in the Marine Corps for 30 years. Talks about his difficulties in the court systems. States that they found that their accountant was embezzling from them when they discovered that a check was missing. Mentions the difficulties that they had with the bank.
110	Mr. Reusser	Notes the bank's response to him and his wife when they were trying to get the statements from the banks. Says that when they were seeking information from the banks he and his wife believed that they had 180 days to seek action. States that he and his wife were illegally put out of their home and have since lost it.
170	Gertrude Reusser	Speaks in support of HB 3344. Adds that they won their lawsuit and how the bank overturned the lawsuit. States that they are still in court over the issue. Talks about hiring the bookkeeper balancing the statement and says that the bookkeeper only had the authority to print the checks for the bills. Says that Oregon statutes were ignored.
190	Mr. Reusser	Believes that the elderly and the disabled citizens of Oregon need financial protection. Says that 180 days would have drastically changed their situation.
200	Ms. Reusser	Says that the bookkeeper was sent to jail and was given the maximum sentence allowed by law.
207	Rep. Schaufler	States that stronger action should have been taken.
209	Mr. Reusser	Thanks the legislators for their support.
214	Jim Evans	Attorney. Speaks in support of HB 3344. Talks about how seniors have been put in compromising financial situations. Believes that HB 3344 will affect more than just Col. Reusser. Says that banks are very adamant about the 30 day limit and notes that the time frame is not adequate.
273	Evans	Urges the committee to pass HB 3344.
288	Tim Martinez	Oregon Bankers Association. Speaks in opposition to HB 3344. Expresses condolences to Col. Reusser and his family. States that HB 3344 will affect small banks as well and will put banks out of compliance with the Security and Exchange Commission.

310	Ken Sherman	Counsel, Oregon Bankers Association. Submits and reads written testimony in opposition to HB 3344 (EXHIBIT F). Says that HB 3344 would make Oregon noncompliant with Article 4 of the Uniform Commercial Code. Indicates that the Uniform Commercial Code has been part of Oregon state law since 1961.
389	Rep. Schaufler	Asks what the banking industry is doing to make sure that Col. Reusser's situation does not happen.
398	Sherman	Talks about what the industry is doing in terms of preventing financial abuse against the elderly.

TAPE 93, B

001	Sherman	Says that the Oregon Bankers Association has been supportive of bills that make financial fraud a crime.
003	Rep. Schaufler	Asks for specific examples of how banks protect elderly people's bank accounts.
015	Sherman	Says that the banking industry is training its employees to spot fraud against the elderly people.
030	Martinez	Talks about the Oregon Bankers Association's work with the Oregon State Bar to draft standards for powers of attorney. Notes that it is difficult to put in protections against financial fraud.
041	Rep. Schaufler	Wants specific examples of the banks catching individuals who are committing fraud.
048	Martinez	Offers to get the information for Rep. Schaufler.
049	Rep. Esquivel	Says that he is concerned that banks are not looking at the signatures on the checks. States that banks are supposed to protect customers.
061	Sherman	States that ORS 74.406 is the primary statute. Says that the initial period is 30 days and, if the bank did not demonstrate ordinary care and fraud occurred, then the time period is 180 days. States that the bank assumes the risk if the bank does not check the signature.
071	Martinez	

		Offers to get the committee information about the number of checks that are cleared everyday. States that it is physically impossible to examine each check.
081	Rep. Schaufler	Asks if ways exist to avoid fraud.
087	Martinez	States that ways exist for ways to avoid fraud.
102	Janet Schoenheit	Oak Grove. Speaks in support of HB 3344. Urges the committee to protect consumers. Talks about Col. Reusser's situation. Says that unsigned checks do not mean that the bank has to refund money to the consumer. Mentions identity theft issues.
155	Chair Brown	Closes the public hearing on HB 3344 and opens the public hearing on HB 2949.

HB 2949 – PUBLIC HEARING

160	Janet Adkins	Committee Administrator. Explains HB 2949. Enters written testimony of Bob Danko for HB 2949 (EXHIBIT L).
180	Randy Tucker	Legislative Affairs Director, Metro. Submits informational packet in support of HB 2949 (EXHIBIT G). Talks about the ground water contamination that has occurred because of methyl tertiary-butyl ether (MTBE). Says that 20 states already ban the chemical. Mentions the Oxygenated Fuel Mandate that was extended in 2004 and that it expires on October 31, 2007.
246	Rep. Schaufler	Asks for a list of the states that have already banned MTBE.
250	Tucker	States that Mr. Carlson has a chart showing MTBE bans. Reads the language from Washington's law.
268	Brian Doherty	Western States Petroleum Association. Takes a neutral stance on HB 2949 and submits written testimony (EXHIBIT H). Mentions the other types of alcohols that have similar properties to MTBE. States that the language he desires is similar to the Arizona law. Says that it can be in the oil in trace amounts due to the oil refinery process. States that he is looking for an appropriate relating cause to add more chemicals to the ban.

315	Chair Brown	Asks if Mr. Tucker has seen the list of chemicals.
317	Tucker	Says that he has seen the relating clause and has no objection to adding the list of chemicals.
340	Rep. Holvey	Asks if any of the ingredients on Mr. Doherty's list are ingredients in biodiesel.
344	Doherty	Offers to get the information for the committee.
360	Charles Carlson	President, Cascade Grain. Submits graph in relation to HB 2949 (EXHIBIT I) . Speaks in support of HB 2949.
380	Dave Stewart-Smith	Assistant Director, Energy Resources, Department of Energy. Speaks in support of HB 2949. Notes that ethanol is a better alternative to MTBE. Talks about how Oregon could become a dumping ground for petroleum with MTBE.

TAPE 94, B

001	Steward-Smith	Further elaborates on the benefits of ethanol.
007	Rep. Holvey	Asks if any of the other chemicals are used in biodiesel.
008	Stewart-Smith	States that methanol is used in the production of biodiesel. Elaborates on the production process of biodiesel.
025	Carlson	Notes that the chemicals are only banned in gasoline and not diesel.
028	Chair Brown	Closes the public hearing on HB 2949 and opens the public hearing on HB 3080.

HB 3080 – PUBLIC HEARING

032	Janet Adkins	Committee Administrator. Explains HB 3080.
063	Rep. Patti Smith	House District 52. Speaks in support of HB 3080. Explains HB 3080. Says that HB 3080 would allow a small forest owner to have

their liens on timber prioritized if a lumber mill goes bankrupt. States that Mr. Smith owns property with timber on it.

084	Rep. Schaufler	Agrees that woodland owners need to be protected. Asks if Rep. Smith would be opposed to creating a bond process rather than a lien process.
095	Rep. Smith	States that she is open to the possibility and wants to hear the rest of the testimony before discussing other avenues.
101	Chair Brown	Talks about current logging practices. Asks if the logger's lien would come before everyone's lien.
113	Rep. Smith	States that worker's have to be paid by the harvester. Believes that when the mill goes bankrupt the owner of the mill does not have to pay for the timber that they have received from landowners.
120	Rep. Schaufler	Emphasizes that he wants to solve the problem and is seeking solutions that will help everyone.
129	Rep. Smith	Says that there is a huge burden on small property owners. Talks about how seed growers were having similar problems several years ago.
132	Chair Brown	Wants to understand the order in which the liens would be recognized.
148	Chuck Taylor	Legislative Counsel. States that the timber producers' liens would have priority over the other liens on the lumber mills.
153	Chair Brown	Asks if the timber could also be a finished product and the timber supplier's lien would still take precedent.
154	Rep. Smith	Affirms the scenario.
163	Kristina McNitt	Oregon Small Woodlands Association. Submits written testimony in support of HB 3080 (EXHIBIT J). Talks about how small landowners only harvest their timber once or twice in a lifetime. States how devastating it is for these landowners to lose the income from their crops.

204	Sarah Lieman	Forrest Landowner, Lincoln County and Benton County. Speaks in support of HB 3080. Talks about what happened when a mill that had gone bankrupt had the logs from one of their harvests. States that she does not believe liens by loggers on lumber mills are different from a lien that is placed on a contractor. Says that she had to pay for the labor, taxes, and reforestation activities even though they did not receive payment for the logs.
250	Lieman	Indicates that in terms of payments in the bankruptcy process the suppliers of the logs are the last people to be paid. Talks about how seed growers can put liens on those whom they sell seeds to. Says that they are logging on a sustainable basis. Mentions the bond that Rep. Schaufler wants and that it would add another cost to doing business. Says that a bond punishes solvent companies. Believes that a lien is better than a bond.
299	Chair Brown	Asks if logs that are branded can be given back to those who logged them.
305	Lieman	States that even when a log is branded it cannot be returned to the logger. Indicates the process logs undergo in the lumber mill.
320	Chair Brown	Notes that if he sells a product, he gets it back if the buyer does not pay for it.
325	Lieman	Agrees with that line of reasoning.
326	Rep. Schaufler	Wants to get rid of the opposition to the pecking order that HB 3080 establishes.
345	Lieman	Says that loggers are at the mercy of the mills and their solvency.
359	Rep. Holvey	Asks about a mill owner that goes bankrupt and if the contractors that logged the product are able to put a lien against the logger's property.
370	Lieman	States that she does not know. Says that she was able to pay her loggers even when she did not receive payment for her logs.
384	Adkins	References section eight of HB 3080.
391	Lieman	States that she believes that loggers can come after her for payment.

395	Rep. Esquivel	Asks if loggers look into a letter of credit or a UCC filing for the logs that are sent to the mill.
410	Lieman	Says that they do not seek a letter of credit or a UCC filing. States that it is not standard practice in the logging industry.

TAPE 95, A

001	Lieman	Talks about the ups and downs of the logging industry.
017	Ray Wilkeson	Oregon Forrest Industries Council. Speaks in support of HB 3080. States that although the timber owners in the Oregon Forrest Industries Council usually harvest more than once in a lifetime, but that the economic effects are still very similar.
042	Rep. Kitts	Talks about his time brokering out a small parcel of land and says that it was one of the most enjoyable business processes. Notes that this industry is done on the word of mouth. Offers to head up a workgroup on the process.
057	Rep. Schaufler	Asks if they still do it on a hand shake.
059	Lieman	Says that they now have a purchase order process and mentions that the purchase order does not have a letter of credit.
074	Chair Brown	Says that merchandise suppliers of any kind have it in their best interest to protect themselves financially in any way possible.
079	Lieman	Says that many people who are doing this are in another line of work and would not know how to use other financial guarantees. Believes that the logs should be used to secure their investment.
094	Leroy Smith	Timber Owner, Corbett. Speaks in support of HB 3080. Talks about how he has experienced three lumber mill bankruptcies. Explains the bankruptcy processes that he has seen in the Hood River area.
150	Smith	States that when a person is harvesting through contracting additional problems can arise when the lumber mill goes bankrupt. Talks about how people have lost everything when they have sold logs to mills and not received any money for the logs.

180	Tim Martinez	Oregon Bankers Association. Speaks in opposition to HB 3080. Notes that UCC's are getting easier to file and would be a good alternative to a lien process.
214	Ken Sherman	Counsel, Oregon Bankers Association. Submits written testimony in opposition of HB 3080 (EXHIBIT K). Reiterates that three existing solutions: selling for cash, filing UCC security papers, and filing a lien for under \$125,000. States that HB 3080 would put a secret lien in place until 45 days after the payment is due.
269	Chair Brown	Asks what priority the \$125,000 lien has.
270	Sherman	Believes that the lien would take priority from the date that it is filed. Offers to get the information for the committee.
282	Rep. Schaufler	Says that a problem exists. Wants all the groups to sit down and work out this issue.
307	Chair Brown	Closes the public hearing on HB 3080 and adjourns the meeting at 10:59 a.m.

EXHIBIT SUMMARY

- A. HB 2603, fiscal statement, staff, 1 p
- B. HB 2603, -1 amendment, staff, 2 pp
- C. HB 2603, -2 amendment, staff, 2 pp
- D. HB 2603, fiscal statement by the Secretary of State's Office, staff, 1 p
- E. HB 3344, written testimony, Eugene Schoenheit, 1 p
- F. HB 3344, written testimony, Ken Sherman, 6 pp
- G. HB 2949, written testimony, Randy Tucker, 27 pp
- H. HB 2949, written testimony, Brian Doherty, 2 pp
- I. HB 2949, written testimony, Charles Carlson, 1 p
- J. HB 3080, written testimony, Kristina McNitt, 1 p
- K. HB 3080, written testimony, Ken Sherman , 3 pp
- L. HB 2949, written testimony, Bob Danko, 1 p