

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

April 19, 2005 Hearing Room E

4:00 P.M. Tapes 96 - 98

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 3363 – Public Hearing

HB 2958 – Public Hearing

HB 3256 – Public Hearing

HB 3319 – Public Hearing

HB 2476 – 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 96, A

003	Chair Brown	Calls the meeting to order at 4:07 p.m. Opens the public hearing on HB 3363.
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HB 3363 – PUBLIC HEARING

010	Janet Adkins	Committee Administrator. Explains HB 3363. Submits written testimony on the behalf of Gary Shapiro in opposition to HB 3363 and on the behalf of Melinda S. Eden and Joan Dukes in support of HB 3363 (EXHIBIT A and B).
030	Rep. Jackie Dingfelder	House District 45. Submits informational packet in support of HB 3363 (EXHIBIT C). Mentions that California has similar standards and Washington State is in the process of passing similar legislation. Talks about the benefits and energy savings that could occur because of HB 3363. Lists the criteria for the appliances covered in HB 3363 and why some products are not covered that are covered in California.
080	Rep. Dingfelder	Talks about how HB 3363 prevents hot halogen bulbs from being used in floor lamps. States that some products would save water throughout the state. Notes the standards will go into effect and apply to appliances starting on January 1, 2008.
102	Chair Brown	Asks where the appliances are manufactured.
104	Rep. Dingfelder	Says that the majority of the appliances are manufactured in the United States.
120	Mike Grainey	Director, Department of Energy. Submits an informational packet and written testimony on behalf of Gov. Ted Kulongoski in support of HB 3363 (EXHIBIT D). States that the federal government has not enacted federal standards for the twelve appliances in HB 3363. Notes that California spent over two years creating similar legislation. Believes that the standards are achievable and the payback will be less than four years.

153	Charlie Stevens	Department of Energy. States that most of the appliances are manufactured in the United States.
160	Jeff Bissonnette	Citizens Utility Board of Oregon. Submits written testimony in support of HB 3363 (EXHIBIT E). Emphasizes that HB 3363 will help consumers by bringing down utility costs. States that California's economy is influential and it is in Oregon's best interest to line up with their standards on energy efficiency.
203	Jim Kraven	American Electronics Association. Welcomes Doug Johnson.
208	Douglas Johnson	Senior Director of Technology Policy, Consumer Electronics Association. Submits written testimony in opposition to HB 3363 (EXHIBIT F). Believes that the provisions in HB 3363 would hurt the electronics industry. Talks about digital adaptors and that they are not commercially available. Mentions the artificial cap on electronics would use more energy because features would go into other devices which could lead to more energy consumption. Notes what is being done on the federal level.
275	Chair Brown	Asks if the only concern is digital television adaptors.
277	Johnson	States that it is the only item which the Consumer Electronics Association is taking a position on in relation to HB 3363.
279	Rep. Holvey	Asks if there are other kinds of television adaptors that would provide the kind of energy savings that HB 3363 is trying to achieve.
282	Johnson	Believes that energy efficiency is set by the high end electronics industry. Shares concerns that an artificial constraint would be detrimental to electronic development.
304	Rep. Shields	Asks if the FCC is driving the development of digital television.
309	Johnson	Says that consumers are driving the transition to digital television. States that a federal interest also exists.
316	Rep. Shields	Asks if it is important to consumers that products be energy efficient.
318	Johnson	Says that people buy products based on the price and features. Notes that energy efficiency is part of the decision to buy a product, but not the main concern for customers.

- 333 Julie Brandis Associated Oregon Industries. Speaks in opposition to HB 3363. Believes that HB 3363 is not the best role for the Department of Energy. Shares concerns about the penalties for not complying with HB 3363. Talks about the difficulty that businesses will have complying with the law. States that updating HB 3363 based on one state's laws would not be beneficial for the state. Says that HB 3363 does not encourage the Department of Energy to work with the private business community.
- 440 Mike Dewey Oregon Cable Telecommunications Association. Says that digital adaptors should not be included.

TAPE 97, A

- 004 Rep. Schaufler Asks them to comment on the previous testimony.
- 015 Grainey Says that Oregon could become a dumping ground for inefficient appliances when California's standards go into place in 2006.
- 030 Stevens Talks about his interactions with private businesses. Says that there is no label or standard for television digital adaptors. States that creating an energy efficient digital television adaptor would cost \$1 and pay back its cost within months. Says that only retailers of the products listed in HB 3363 will be under the jurisdiction of HB 3363. Notes that at the federal level standards on energy consumption have stalled.
- 090 Mike Madsen President, Coin Meter Company. Submits and reads from written testimony in opposition to HB 3363 (**EXHIBIT G**). States that the common laundry room market is already moving to more energy efficient washers. Expresses concern about that ability of new energy star washers to properly clean clothes.
- 140 Mardsen Continues to read from written testimony. Talks about some washing machines needing more water to wash very dirty clothing. States that common laundry rooms already save water. Mentions that higher prices in common laundry rooms drive renters away.
- 186 Rep. Shields Thanks Mr. Mardsen for coming.
- 189 Mardsen Mentions types of washers and the companies who make them.

196	Chair Brown	Closes the public hearing on HB 3363 and opens a public hearing on HB 2958.
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HB 2958 – PUBLIC HEARING

200	Janet Adkins	Committee Administrator. Explains HB 2958.
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210	Rep. Sal Esquivel	House District 6. Speaks in support of HB 2958. Talks about a prepayment penalty that was arbitrarily put on a closing statement during the lending process. Explains that HB 2958 requires a bank to provide documentation for a prepayment penalty. Says that providing this information is not that difficult.
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268	Rep. Esquivel	States that HB 2958 does not just apply to Oregon banks. Notes that the government needs to protect consumer. Believes that consumers need to know about prepayment penalties and wants the bank to prove that they have a valid prepayment penalty.
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314	Rep. Schaufler	Believes that the legislature needs to protect consumers.
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335	Tim Martinez	Oregon Bankers Association, United Financial Lobby, Credit Union Association, Mortgage Bankers and Mortgage Brokers. Speaks in opposition to HB 2958. Notes that Rep. Esquivel's case did not involve an Oregon Bank. Reads ORS 86.151 and ORS 82.161, which mention prepayment penalties. States that people need to keep their loan records.
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400	Martinez	Talks about Zytec ads on television and the belief that in the loan documents it tells the consumer which state the loans fall under. Talks about laws regarding late fees on credit cards and why it made Oregon a less competitive market place for credit cards.
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TAPE 96, B

001	Martinez	Mentions the United Financial Lobby.
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012	Paul Congrove	Oregon Financial Services Association and the United Financial Lobby. Speaks in opposition to HB 2958. States that they have a concern with the bill because they do not have an ESCROW agent to prove the loan to.
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022	Rep. Esquivel	
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States that an out of state lender provided the prepayment penalty but the loan was made by an Oregon lender.

029 Martinez Says that there was no prepayment penalty in Rep. Esquivel's original documents.

035 Chair Brown Closes the public hearing on HB 2958. Opens public hearing on HB 3256.

HB 3256 – PUBLIC HEARING

042 Janet Adkins Committee Administrator. Explains HB 3256.

056 Lisa Trussell Associated Oregon Industries. Submits written testimony in support of HB 3256 (**EXHIBIT H**). States that the Whistleblower Act was meant to apply to the employee's employer, but has been interpreted from protecting a person from all employers. Wants clarification in the law.

095 Annette Talbot Bureau of Labor and Industry (BOLI). Submits written testimony on the behalf of Dan Gardner in opposition to HB 3256 (**EXHIBIT I**). Talks about how whistleblowers could be negatively affected by HB 3256. Indicates that there are situations where an employee's company would not support the employee whistle blowing on another company.

134 Chair Brown Asks about the change to the word "because".

136 Talbot States that the change is under the prevue of Legislative Counsel.

141 Chair Brown Talks how it is a civic duty for people to report criminal activities on the part of an employer even if it is not the person's employer.

145 Talbot Asserts that the whistle blowing protection laws were put in for the reason stated.

152 Rep. Shields Asks about whistleblowers in large corporations such as Enron and how this will affect those whistleblowers.

160 Talbot

Talks about how an employer could discriminate against the employee after person reported criminal activities about another firm. Says that this could especially affect industries that are close-knit.

182 Chair Brown Closes the public hearing on HB 3256 and opens the public hearing on HB 3319.

HB 3319 – PUBLIC HEARING

185 Janet Adkins Committee Administrator. Explains HB 3319. Submits the -1 amendments (**EXHIBIT K**).

205 Lisa Trussell Associated Oregon Industries. Submits and reads from written testimony in support of HB 3319 and the -1 amendments (**EXHIBIT J**). Talks about how HB 3319 gets rid of the double penalties on a person's last paycheck. Indicates that on a final paycheck an employer can be assessed a penalty under statute for incorrect payment under two separate laws.

260 Paul Cosgrove Addis Health Care. Talks about how Addis Health Care contracts work to various employees. Indicates how Addis' employees receive new work. Mentions employees who have voluntarily quit and how final paychecks must be given to employees. Notes that current Oregon law provides for a different set of notice for employees who have quit voluntarily with and without notice.

322 Cosgrove Notes the difficulties Addis has with issuing final paychecks. Says that section two of the -1 amendments deals with the penalty wages that are based on an eight hour day. Says that the amendment creates a penalty based on the average number of hours an employee worked each day.

362 Rep. Schaufler Asks how widespread the issue of double penalties are in relation to final paychecks.

373 Trussell States that the issue is on an individual basis and says that just because a paycheck is short does not mean an employer is trying to take advantage of employees. Says that additional penalties should not be assessed just because the paycheck qualifies as the employee's final paycheck.

420 Christie Hammond

Bureau of Labor and Industry (BOLI). Submits and reads written testimony on the behalf of Dan Gardner in opposition to HB 3319 and the -1 amendments (**EXHIBIT L**).

TAPE 97, B

001	Hammond	Continues to read from written testimony. States that BOLI has not seen a court case where a double penalty has been assessed on an employer. Indicates that BOLI does not believe it is acceptable for an employer to refuse to issue a paycheck if they do not have an employee's time card. Explains the -1 amendments.
072	Chair Brown	Asks how an employer would know how much to pay an employee if the employee did not turn in a timecard.
073	Hammond	Says that an employer may not withhold wages for failing to receive timecards.
081	Chair Brown	Asks clarifying question.
083	Hammond	States that there are other ways for an employee to turn in time cards.
087	Chair Brown	Says that even if the employer submits to disciplinary action an employer still does not know how much to pay the employee unless the employer has the timecard.
089	Rep. Schaufler	Asks if common ground exists so that both AOI and BOLI can compromise. Asks what happens when a company outsources payroll and the other company makes a mistake on an employee's paycheck.
101	Hammond	Asserts that BOLI never assesses penalties if there is a simple mistake. Indicates that penalties are assessed when a pattern of wrongdoing exists.
108	Rep. Schaufler	Asks if any room for compromise exists.
109	Hammond	States that BOLI does not believe that there are not double penalties for the same violation. Says that they are willing to work with Mr. Cosgrove to provide a process for his industry.
121	Rep. Holvey	

		Asks about reimbursement from an agency for time owed and if it forgives him from paying the employee if the reimbursement is late.
129	Hammond	States that it does forgive him from penalties on paying wages in an untimely manner.
131	Rep. Esquivel	Says that the issue with the time cards needs to be cleared up.
137	Rep. Holvey	Asks if it is the employer's choice to have time cards and if a supervisor signs off on the timecards.
145	Hammond	Says that an employer is responsible for monitoring how many hours an employee has worked.
154	Joe Schaeffer	SEIU Local 503. Submits and reads from written testimony in opposition to HB 3319 (EXHIBIT M). States that when employees have problems they go first to their employers and then seek the services of BOLI if the issue is not resolved.
181	Steve Lanning	Oregon AFL-CIO. Speaks in opposition to HB 3319. Says that the way the law is administered works.
205	Steve Schneider	Schneider Equipment. Speaks in support of HB 3319 and the -1 amendments. Talks about the difficulty in applying the laws that surround final paychecks. Mentions the difficulties that occur when using another company to issue paychecks. Talks about time cards and how they do not know how many hours that an employee is working. States that employees do go straight to BOLI. Says that BOLI does assess penalties for acts that are unintentional and nearly drove his company to bankruptcy.
261	Rep. Schaufler	Asks if an employer has to provide a paycheck immediately for an employee who quits his/her job.
264	Dan Gardner	Commissioner, BOLI. Says that if an employee is fired someone has to be paid immediately. States that if an employee quits they can be paid in the normal pay cycle. Talks about the issue of time cards and how the employee sets the shifts and how employers are notified of changes in the employees' time cards.
298	Chair Brown	States that he follows labor laws to the best of his ability and treats his employees fairly. Talks about the difficulty in calculating time periods.

307	Gardner	Says that BOLI tries to work with the employer to work out the situation. States that most employers in Oregon are trying to make sure that the employee is paid correctly.
320	Chair Brown	Closes the public hearing on HB 3319 and opens the public hearing on HB 2476.

HB 2476 – PUBLIC HEARING

329	Janet Adkins	Committee Administrator. Explains HB 2476.
360	Jeff Deor	Associated Building Contractors. Speaks in support of HB 2476.
365	Steve Schneider	Schneider Equipment. Submits written testimony in support of HB 2476 (EXHIBIT N). Describes his business. Says that daily overtime laws in Oregon are not compatible with federal regulations and the Fair Labor Standards Act.

TAPE 98, B

001	Schneider	Summarizes written testimony. Mentions the difficulty in complying with daily overtime laws. States that BOLI has drafted new laws to make sure that employees can not pay less than 1.5 times weekly wage average. Notes the difficulty that BOLI and the Department of Justice have had when trying to calculate daily overtime.
060	Schneider	Talks about how there are no computer programs that compute daily overtime. Shares a concern about public works construction is required to have an administrative burden. States that there is an option for employers and if a change occurs it has to be permanent.
108	Schneider	Asserts that daily overtime laws create an environment in which equal employment does not exist.
137	Rep. Schaufler	Asks if there is software for the federal rate.
139	Schneider	Says that there are computer programs to compute the federal rate.
142	Rep. Schaufler	Asks if there was software before for the federal rate.

143	Schneider	States that when the law was first made computers were not widely used.
146	Rep. Holvey	Asks how many employees Mr. Schneider has.
148	Schneider	Says that they have around twenty employees.
150	Rep. Schaufler	Submits written testimony on behalf of Mary Botkin in opposition to HB 2476 (EXHIBIT P). States that if HB 2476 would have an effect on the most vulnerable in the workforce and it would affect those people in Qualified Rehabilitation Facilities.
153	Dan Gardner	Commissioner, BOLI. Submits written testimony in opposition to HB 2476 (EXHIBIT O). Offers to talk to Mr. Schneider about his situation and notes that it happened before he was commissioner. Talks about the prevailing wage book that BOLI publishes. Believes that HB 2476 is an extreme measure because it repeals the eight hour workday and removes many overtime provisions.
193	Rep. Schaufler	Asks if BOLI is near offering software for calculating the daily overtime provision.
201	Gardner	Says that BOLI is not near to offering software. Offers to look into the development of the software.
205	Rep. Holvey	Asks if any union contracts pay less than what is in ORS 279.
210	Gardner	States that he is not aware of any contracts and that most are much stronger than ORS 279.
216	Chair Brown	Asks if the statutes in ORS 279 apply only to public work contracts.
217	Gardner	Indicates that HB 2476 only applies to public work contracts.
220	Chair Brown	Asks if the existing statutes are the same way.
221	Gardner	Says that for manufacturing the ten hour workday is in statute and Saturdays, Sundays and Holidays.
226	Joe Schaeffer	

SEIU Local 503. Submits written testimony in opposition to HB 2476 (**EXHIBIT Q**).

239	Steve Lanning	Oregon AFL-CIO. Speaks in opposition to HB 2476.
255	Chair Brown	Closes the public hearing on HB 2476. Adjourns the meeting at 6:15 p.m.

EXHIBIT SUMMARY

- A. **HB 3363, written testimony of Gary Shapiro, staff, 4 pp**
- B. **HB 3363, written testimony of Melinda S. Eden and Joan Dukes, staff, 1 p**
- C. **HB 3363, informational packet, Rep. Jackie Dingfelder, 4 pp**
- D. **HB 3363, informational packet and written testimony of Gov. Ted Kulongoski, Mike Graine, 21 pp**
- E. **HB 3363, written testimony, Jeff Bissonnette, 2 pp**
- F. **HB 3363, written testimony, Douglas Johnson, 4 pp**
- G. **HB 3363, written testimony, Mike Mardsen, 4 pp**
- H. **HB 3256, written testimony, Lisa Trussell, 1 p**
 - I. **HB 3256, written testimony of Dan Gardner, Annette Talbot, 2 pp**
 - J. **HB 3319, written testimony, Lisa Trussell, 1 p**
- K. **HB 3319, -1 amendments, staff, 3 pp**
- L. **HB 3319, written testimony of Dan Gardner, Christie Hammond, 3 pp**
- M. **HB 3319, written testimony, Joe Schaeffer, 1 p**
- N. **HB 2476, written testimony, Steve Schneider, 33 pp**
- O. **HB 2476, written testimony, Dan Gardner, 2 pp**
- P. **HB 2476, written testimony of Mary Botke, Rep. Mike Schaufler, 1 p**
- Q. **HB 3319, written testimony, Joe Schaeffer, 1 p**