

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

**April 29, 2005 Hearing Room B**

**9:00 A.M. Tapes 107 - 110**

**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 2077 – Public Hearing**

**HB 3271 – Public Hearing**

**HB 3281 – 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.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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## TAPE 107, A

003 Chair Brown Calls the meeting to order at 9:05 a.m. Opens the public hearing on HB 2077.

### HB 2077 – PUBLIC HEARING

006 Janet Adkins Committee Administrator. Explains 2077 and the -2 amendments **(EXHIBIT A)**.

016 Jessica Harris Adamson Associated General Contractors. Speaks in support of HB 2077. Talks about the difficulties contractors have had with Oregon Department of Transportation's (ODOT) contracts since the price of steel has risen rapidly.

033 Tim Hendrix Wildish Construction. Speaks in support of HB 2077. Details what contractors build across the state. Talks about the price of steel in the state of Oregon and the rapid rise in its price. States that contractors have not been able to adjust the price of contracts since the rise in the price of steel occurred. Explains how the bill will help contractors and suppliers.

080 Hendrix States that HB 2077 gives money back to the state if there is a decrease in steel costs. Talks about fuel de-escalation and escalation clauses in ODOT contracts. Notes that the same contract is needed for the cost of steel.

125 John Jackley Oregon Department of Transportation (ODOT). Submits written testimony that is neutral on HB 2077 **(EXHIBIT B)**. States that they are close to reaching an agreement on HB 2077. Believes that HB 2077 is needed to help them reimburse contractors for the price of steel. Indicates that ODOT is ensuring that HB 2077 will allow them to reimburse contractors who are already under contract. Adds that ODOT is also examining how much risk will be assumed by ODOT and the contracting companies.

157 Chair Brown Asks when the amendments will be done.

160 Harris Adamson Believes that an agreement has been reached and the amendments will be drafted by Monday or Tuesday.

165 Chair Brown

Closes the public hearing on HB 2077. Opens the public hearing on HB 3271 and HB 3281.

**HB 3271 and HB 3281 – PUBLIC HEARING**

Kim Morris	Submits written testimony without oral testimony in support of HB 3271 and HB 3281 ( <b>EXHIBIT S and T</b> ).
Richard Barton	Submits written testimony without oral testimony in support of HB 3281 ( <b>EXHIBIT U</b> ).
Jim DeBoer	Submits written testimony without oral testimony in support of HB 3281 and HB 3271 ( <b>EXHIBIT V and Z</b> ).
William E Putney	Submits written testimony without oral testimony in support of HB 3271 and HB 3281 ( <b>EXHIBIT W and X</b> ).
Andrew T Ariizumi	Submits written testimony without oral testimony in support of HB 3271 ( <b>EXHIBIT Y</b> ).
Mason Young	Submits written testimony without oral testimony on HB 3271 and HB 3281 ( <b>EXHIBIT GG and HH</b> ).
Dan Leasia	Submits written testimony without oral testimony in support of HB 3271 and HB 3281 ( <b>EXHIBIT II and JJ</b> ).
John R. Rider	Submits written testimony without oral testimony in support of HB 3271 and HB 3281 ( <b>EXHIBIT KK and LL</b> ).
George Grosch	Submits written testimony without oral testimony in opposition to HB 3271 and HB 3281 ( <b>EXHIBIT MM and NN</b> ).
Kathleen Alberque	Submits written testimony without oral testimony in opposition to HB 3271 and HB 3281 ( <b>EXHIBIT VV and WW</b> ).
Alice Dale	Submits written testimony without oral testimony in opposition to HB 3271 and HB 3281 ( <b>EXHIBIT AAA and BBB</b> ).
Jan Kral	Submits written testimony without oral testimony in opposition to HB 3271 and HB 3281 ( <b>EXHIBIT CCC and DDD</b> ).

- 173 Janet Adkins Committee Administrator. Explains HB 3271 and HB 3281.
- 225 JL Wilson National Federation Independent Business – Oregon. Submits and reads from written testimony in support of HB 3281 (**EXHIBIT C**). Speaks in support of HB 3271. References attachment in written testimony (**EXHIBIT C**). Mentions how Qualified Rehabilitation Facilities (QRF) automatically have a market share that others in the private sector do not have. Mentions the bylaws of QRFs (**EXHIBIT C**).
- 330 Wilson Continues to read from written testimony (**EXHIBIT C**). Notes that the private sector has almost no say in what goods and services are put on the QRF procurement list. Talks about the definition of disabled and says that what represents a disability is broader in scope than intended. References list of qualifying conditions for St. Vincent DePaul Ad (**EXHIBIT C**).
- 391 Wilson Talks about the *Register-Guard* ad (**EXHIBIT C**). Believes that a definition of severely disabled needs to be established that makes sense for community members.

**TAPE 108, A**

- 001 Wilson Details public contracts that have been lost to QRFs.
- 019 Ed Edwards Director of Government Relations, Oregon Schools Employee Association. Speaks in support of HB 3271 and HB 3281 and submits written testimony in support of HB 3281 (**EXHIBIT D**). Concentrates the majority of testimony on HB 3281. Talks about the movement in 1977 to bring people with disabilities into the workforce. Talks about the Products of Disabled Individual Law (PDIL) that HB 3281 amends.
- 071 Edwards Talks about the ability for QRFs not to be subject to the non-competitive bidding contract. Says that the PDIL has evolved over the past decades and details the changes that have been made. Talks about the displacement of janitorial workers by workers who fall under PDIL.
- 134 Edwards Believes that the situation with the janitorial workers goes against the original intent of the law. Elaborates on the current situation with the janitors in the Portland Public School District.

184	Rep. Schaufler	Asks if the opposing sides are willing to address concerns about QRFs. Asks what private employers are willing to do to bring people with disability to work. References the DePaul list and says that the majority of people will qualify. Says that he has a problem with the government saving money by taking advantage of disabled people.
219	Rep. Esquivel	Asks what happens when there is a private bid that is lower than a QRF's bid.
225	Wilson	Says that the lawn service submitted a \$25,000 bid and the QRF bid was \$37,000.
230	Rep. Esquivel	Asks if the government has to accept the higher bid if a QRF is making the bid.
234	Wilson	States that the government has to accept the QRF's bid. Adds that this is a concern for taxpayers.
242	Rep. Kitts	Asks if the state could be costing taxpayers more money by hiring a QRF to do contract work.
247	Wilson	Says that it goes both ways.
250	Rep. Kitts	Asks if the QRF's janitorial contract is less expensive than the janitors who lost their jobs.
253	Edwards	States that the QRF's contract is less expensive in the case of the Portland School District. Says that the Portland School District's response has been that they are saving \$5 million.
262	Michael Carter	Rainier School District. Notes that they have saved 35% of the janitorial budget and this helps save teacher's jobs. Talks about how those people with disabilities who work as janitors are role models and have become a larger part of the community.
320	Carter	Talks about the benefits of diversity that occur because of the law. States that they do not have the means in their district to test if the people truly have disabilities. Notes that three schools in his district have been closed.
363	Mary Botkin	American Federation of State and Municipal Employees (AFSME). Speaks in support of HB 3271 and HB 3281. Talks about how

AFSME represent group homes that house people with severe disabilities. Says that their goal is to protect their clients with severe mental and physical disabilities.

## TAPE 107, B

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| 001 | Botkin      | Wants people with these disabilities to have access to a union. Talks about and agrees with the definitions of disabled in law, but notes that their interpretation is problematic. Talks about situation where prison industries wanted to take jobs from people with disabilities. Mentions that the industry of placing people with disabilities is a major industry.  |
| 050 | Botkin      | Says that food service, security service, and janitorial service for the new Safety, Standards, and Training Facility is being contracted out to other workers. Notes the importance of providing full-time, permanent, living wage jobs. Talks about how employers should be given subsidies for a worker if the employer agrees to fully integrate them into that employer's workforce. Believes that as a public sector union, the workforce should be fully integrated regardless of race, gender, or physical ability. |
| 104 | Botkin      | Emphasizes that workers deserve to be paid a good wage. Offers to submit Oregonian Article after the meeting ( <b>EXHIBIT E and F</b> ). Talks about the difficulties of the workgroup and their commitment to finding a solution.  |
| 129 | Chair Brown | Asks if QRFs are exempt from minimum wage.  |
| 133 | Botkin      | Says that they do not have to pay minimum wage. Says that the wages medium range was \$2.64/hour and the range was from \$0.03/hour to \$7.93/hour.   |
| 149 | Chair Brown | Asks if the QRFs are subject to public auditing.  |
| 152 | Botkin      | Says that the Secretary of State can audit any state programs and states that there is a need for some serious changes in the interpretations of PDIL.  |
| 176 | Rob Wagner  | American Federation of Teachers. Speaks in support of HB 3281. Talks about the decline of service that has occurred after the janitorial positions were given to QRF contracts. Mentions that the Hillsboro school district is threatening to contract out janitorial services.   |

- 210 Roger Martin Lobbyist, speaks for self. Speaks in opposition to HB 3271 and HB 3281. States that he was a member of the 1977 Legislator when the legislation passed. Talks about the commitment that was made to the disabled community. Says that people with disabilities need jobs. Notes that this legislation has saved million of dollars for the state through the PDIL.
- 260 Martin Talks about his cousin's disability due to her premature birth. States that she is paid less than minimum wage and she loves her job.
- 299 Tim Kral Oregon Rehabilitation Association. Submits written testimony in opposition to HB 3281 and HB 3271 (**EXHIBIT G and H**). Says that 65% of people with disabilities are unemployed. States that the program is less than 1% of all public agencies. Notes the exemptions to products (**EXHIBIT G and H**). Talks about how private business would like to see all contracts become part of the competitive bid process.

#### **TAPE 108, B**

- 001 Nan Heim Oregon Rehabilitation Association. Speaks in opposition to HB 3281 and HB 3271. Believes that HB 3271 eliminates the exemption for competitive bidding. Explains why QRF contracts sometimes cost more than other contract bids. Emphasizes that QRFs provide supportive assistance employment to ensure that people with disabilities receive proper medical care. States that HB 3271 will cut QRFs out of winning public contracts.
- 056 Rep. Schaufler Says that when people say that there is no need for negotiation it concerns him. Believes that there is always something to negotiate.
- 085 Martin Talks about a furniture program at the federal penitentiary in Sheradon. Believes that the people who lose in the negotiations will be the people with disabilities.
- 093 Rep. Schaufler Appreciates Mr. Martin's testimony.
- 096 Chair Brown Asks about the 3 cents an hour wage.
- 100 Kral States that he believes that *The Oregonian* article is correct. Talks about the costs associated with employing a severely disabled individual. Says that most QRFs do use sub-minimum wage certificates and outlines the process for receiving the certificate.

Notes that most people under the PDIL are not working at sub-minimum wage.

- 149 Rep. Schaufler Says that the people who are making sub-minimum wage are the very people that the law was intended to reach. Asserts that everyone on jobsites have varying abilities but they should still get the same rate. Says that the crux of the issue is where the line is drawn as the rate of ability increases in the people with disabilities population.
- 174 Mik Kokkeler Kokkeler Lawn and Landscape. Submits written testimony in support of HB 3271 and HB 3281 (**EXHIBIT OO and PP**). Talks about how his business worked hard to acquire a landscape contract with the Lane County Youth Facility. States that when the contract was supposed to be renegotiated, Cornerstone, a QRF, took the contract without going through competitive bidding process.
- 195 Bob Deenin DPS, Inc. Submits written testimony in support of HB 3271 and HB 3281 (**EXHIBIT QQ and RR**).
- 200 Chair Brown Moves the full committee to a subcommittee.
- 201 Deenin Continues the testimony. Talks about the nature of his business. States that he was a special education teacher. Believes that current laws restrict the ability of handicapped individuals to become independent. Asserts that the goal of current law is to employ people who are not competitively employable because of the nature of their disability.
- 250 Deenin States that people with disabilities as defined under law could not perform the work at his business and not be competitively employable. Notes that he has lost \$17,000 a year and could lose \$160,000 a year if QRF gets his state contracts.
- 295 Jerry Egger Mid-Valley Presort and Mailing. Submits written testimony in support of HB 3281 (**EXHIBIT I**). Believes that the original intent of PDIL was not to cover every individual who has a disability but instead those who were severely disabled. Talks about how PDIL has negatively affected his business. Wants the Department of Administrative Services (DAS) to review the application process. Says that originally the applications said the target population was severely handicap and now “severely” has been removed.
- 350 Egger Says that DAS has estimated that \$20 million to \$50 million has been spent on QRF contracts.



- 368 Chair Brown Welcomes Rep. Gilman back and moves the subcommittee to a full committee.
- 384 Justin Martin Portland Public Schools. Submits written testimony in opposition to HB 3271 and HB 3281 (**EXHIBIT J and K**). Believes that the PDIL is working quite well. Defends the Portland Public Schools employment of a QRF to perform janitorial services. Says that they have saved \$3.7 million in the first year and \$6.9 million in the second year.

**TAPE 109, A**

- 001 Martin Notes that QRF employees take pride in their work. Talks about budget difficulties.
- 011 John Murphy Portland Rehabilitation Center. Submits and reads from written testimony in opposition to HB 3271 and HB 3281 (**EXHIBIT L and M**). Notes that they are a union shop and their average wage is \$11.06 an hour.
- 016 Chair Brown Moves the committee to a subcommittee.
- 017 Murphy Continues with testimony. Talks about how QRFs help disabled individuals. Asserts that private businesses have a wide range of areas where they can compete and that QRFs can only compete in a small, specialized area of the government. Indicates that most individuals in QRFs are severely disabled. Gives history of oppression faced by people with disabilities and the Portland Rehabilitation Center's beginning in 1974.
- 069 Robert Steward DePaul Industries. Talks about his difficulty finding employment, because of stereotypes about people with disabilities. Says that, at DePaul, he does not have to worry about stereotypes. States that the QRF programs do work.
- 095 Rep. Shields Talks about how many of his constituents lost their jobs when Portland Public School's contracted out its janitorial jobs. Mentions his non-profit operates under the philosophy that they do not undercut workers and that their clients would not profit at the expense of other workers. Believes that Portland Public Schools had a choice.
- 113 Murphy Discusses that when they went to the Portland Public Schools they were not looking to pay less wages.

117	Rep. Shields	Asks if the same wages are paid that the Portland Public School janitors were previously paid.
119	Murphy	States that the workers are not paid the same wages.
130	Chair Brown	Welcomes the committee members back and moves the subcommittee to a full committee.
132	Debra Wood	Shangri-Lai employee. Gives personal background. Talks about how Shangri-Lai has helped her find employment and that she will not retire until she gets old.
163	Jake Norman	Shangri-Lai employee. Talks about work, mom and dad.
180	Marylou Yerman	ARC Manufacturing. Talks about her experiences with epilepsy and the discrimination that she has faced. Talks about how Shangri-La has helped her. Describes her situations with employment. Asserts that she is a good role model for her children because she has been able to work. Notes the benefits of job experience. Says that she is making over eight dollars an hour.
250	Wood	Asks committee to save her job.
265	Susan Saffron	American Building Maintenance Company (ABM). Speaks in support of HB 3281 and HB 3271. States that ABM is no longer the largest janitorial service company because it has systematically lost its contracts to QRFs under the PDIL. Reads recruitment language for QRFs and states that the language reaches out to job applicants who may not consider themselves to be disabled. Notes that under the American with Disabilities Act (ADA) employers are already required to hire individuals with disabilities so long as they can perform the essential functions of the job.
310	Saffron	States that ABM employs people who could be employed by QRFs. Gives example. Notes that they lost their Portland Airport and the City of Hillsboro contract to a QRF. Mentions that the City of Hillsboro tried to renegotiate the contract with ABM but decide not to because they did not want "bad press".
380	Chuck Morgan	Laser Care, Inc. Submits and reads from written testimony in support of HB 3271 and HB 3281 ( <b>EXHIBIT YY and ZZ</b> ). Gives history of his business. Notes the business that has been lost to QRFs. Believes that the definition of disability has become too broad.

## TAPE 110, A

- 001 Morgan Talks about the loss of public contracts experienced by his business.
- 020 Rep. Schaufler Asks if people with disabilities can work for small businesses by having small business employ people who have disabilities.
- 042 Morgan States that one of his key employees has a disability and notes that this was done without a mandate from the state. Adds that he employed the employee's son who also has severe epilepsy.
- 066 Adkins Submits written testimony on the behalf of Stephanie Parrish Taylor in opposition, Diane Lancaster taking a neutral position on HB 3271 and HB 3281 (**EXHIBIT AA, BB, CC, and DD**)
- 070 Tina Jacky Former Janitor for the Portland Public Schools. Submits written testimony and a qualified facility rehabilitation application (**EXHIBIT TT, UU, N and O**). Discusses the difficulties she endured when she lost her job with Portland Public Schools. Notes that people who were janitors had disabilities. Talks about the qualified rehabilitation facility application. States that she could qualify as disabled.
- 113 Merlene Martin President, Oregon School Employees Association. Submits and reads from written testimony in support of HB 3281 and HB 3271 (**EXHIBIT EE and FF**). Talks about how OSEA was distressed to find that both the Portland Public School District and the Rainier Public School District contracted work to QRFs. Believes that PDIL has moved beyond its original intent. Wants school districts and community colleges to be exempt from the PDIL process. Notes that she is a disabled worker and that she uses her job to educate children about her disability.
- 185 Albert Verheider DePaul Industries. Speaks in opposition to HB 3281 and HB 3271. Talks about having Tourettes Syndrome and how he had trouble finding employment for four months. States that with DePaul he applied and had a job the next day.
- 200 Tootie Smith JODA Jobs. Submits informational packet in opposition to HB 3281 and HB 3271 (**EXHIBIT P**). States that savings have occurred because of QRFs. Talks about budget difficulties in 2003-2005 biennium. States that QRFs can bid on twelve types of jobs under the PDIL.

- 275 Rep. Schaufler Thanks Mr. Verheider for his compelling testimony. States that they tried to sponsor a bill that would have solved the states' funding problems. Says that he was not the one that voted to cut services. Notes that prevailing wage laws have been around for decades and speaks in support of living wage jobs.
- 320 Smith Notes that the PDIL has been around for years and has created jobs.
- 325 Sandra Bishop Fair Competition Alliance. Submits and reads written testimony in support of HB 3271 and HB 3281 (**EXHIBIT Q and R**). Talks about HB 3281. States that the definition for disability comes from ORS 344.511. Believes that DAS has inserted administrative rule into the definition of disabled improperly.

### **TAPE 109, B**

- 001 Bishop Continues testifying. Talks about the Portland Rehabilitation Center's contracts which total almost \$30 million.
- 017 Rep. Holvey Shares his desire that all people have employment. States that wage standards are not subsidies.
- 024 Chair Brown Closes the public hearing on HB 3271 and HB 3281. Adjourns the meeting at 12:10 p.m.

### **EXHIBIT SUMMARY**

- A. **HB 2077, -2 amendments, staff, 2 pp**
- B. **HB 2077, written testimony, John Jackley, 2 pp**
- C. **HB 3281, written testimony, JL Wilson, 9 pp**
- D. **HB 3281, written testimony, Ed Edwards, 3 pp**
- E. **HB 3271, written testimony, Mary Botkin, 2 pp**
- F. **HB 3281, written testimony, Mary Botkin, 2pp**
- G. **HB 3271, written testimony, Tim Kral, 28 pp**
- H. **HB 3281, written testimony, Tim Kral, 28 pp**
  - I. **HB 3281, written testimony, Jerry Egger, 3 pp**
  - J. **HB 3271, written testimony, Justin Martin, 2 pp**
  - K. **HB 3281, written testimony, Justin Martin, 2 pp**
  - L. **HB 3271, written testimony, John Murphy, 2 pp**

- M. HB 3281, written testimony, John Murphy, 2 pp
- N. HB 3271, qualified rehabilitation facility application, Tina Jacky, 4 pp
- O. HB 3281, qualified rehabilitation facility application, Tina Jacky, 4 pp
- P. HB 3271, informational packet, Tootie Smith, 3 pp
- Q. HB 3271, written testimony, Sandra Bishop, 9 pp
- R. HB 3281, written testimony, Sandra Bishop, 9 pp
- S. HB 3271, written testimony, Kim Morris, 2 pp
- T. HB 3281, written testimony, Kim Morris, 2 pp
- U. HB 3281, written testimony, Richard Barton, 2 pp
- V. HB 3281, written testimony, Jim DeBoer, 1 p
- W. HB 3271, written testimony, William E Putney, 1 p
- X. HB 3281, written testimony, William E Putney, 1 p
- Y. HB 3271, written testimony, Andrew T Ariizumi, 1 p
- Z. HB 3271, written testimony, Jim DeBoer, 1 p

- 1. AA. HB 3271, written testimony of Stephanie Parrish Taylor, staff, 2 pp
- 2. BB. HB 3281, written testimony of Stephanie Parrish Taylor, staff, 2 pp
- 3. CC. HB 3271, written testimony of Diane Lancaster, staff, 2 pp
- 4. DD. HB 3281, written testimony of Diane Lancaster, staff, 1 p
- 5. EE. HB 3281, written testimony, Merlene Martin, 2 pp
- 6. FF. HB 3281, written testimony, Merlene Martin, 2 pp
- 7. GG. HB 3271, written testimony, Mason Young, 1 p
- 8. HH. HB 3281, written testimony, Mason Young, 1 p
- 9. II. HB 3271, written testimony, Dan Leasia, 1 p
- 10. JJ. HB 3281, written testimony, Dan Leasia, 1 p
- 11. KK. HB 3271, written testimony, John R. Rider, 1 p
- 12. LL. HB 3281, written testimony, John R. Rider, 1 p
- 13. MM. HB 3271, written testimony, George Grosch, 1 p
- 14. NN. HB 3281, written testimony, George Grosch, 1 p
- 15. OO. HB 3271, written testimony, Mick Kokkeler, 1 p
- 16. PP. HB 3281, written testimony, Mick Kokkeler, 1 p
- 17. QQ. HB 3271, written testimony, Bob Deedin, 4 pp
- 18. RR. HB 3281, written testimony, Bob Deedin, 4 pp

AS. HB 3271, written testimony, Jim DeBoer, 1 p

- 1. TT. HB 3271, written testimony, Tina Jacky, 1 p
- 2. UU. HB 3281, written testimony, Tina Jacky, 1 p
- 3. VV. HB 3271, written testimony, Kathleen Alberque, 1 p
- 4. WW. HB 3281, written testimony, Kathleen Alberque, 1 p
- 5. XX. HB 3281, written testimony, Richard Barten, 2 pp
- 6. YY. HB 3271, written testimony, Chuck Morgan, 1 p
- 7. ZZ. HB 3281, written testimony, Chuck Morgan, 1 p
- 8. AAA. HB 3271, written testimony, Alice Dale, 2 pp
- 9. BBB. HB 3281, written testimony, Alice Dale, 2 pp
- 10. CCC. HB 3271, written testimony, Jan Kral, 15 pp
- 11. DDD. HB 3281, written testimony, Jan Kral, 15 pp