

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

May 27, 2005 Hearing Room B

1:00 P.M. Tapes 148 - 149

Corrected 10/03/05

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:

SB 316A – Public Hearing and Work Session

HB 2535 – Public Hearing and Work Session

SB 1006 – Work Session

SB 477A – 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 148, A

003	Chair Brown	Calls the meeting to order at 10:40 a.m. Opens the public hearing on SB 316A.
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SB 316A – PUBLIC HEARING

007	Janet Adkins	Committee Administrator. Explains SB 316A.
020	Sen. Avel Gordly	Senate District 23. Speaks in support of SB 316A. Reads ORS 943.325. Talks about ORS 200.035. States that what is missing from the statute is the requirement that the results of solicitations for the Minority, Women, and Small Businesses program be reported.
087	Lydia Muniz	Governor’s Advocate for Minority, Women, and Small Businesses. Speaks in support of SB 316A. Wants state agencies to notify what solicitations have been made and what contracts were awarded to Minority, Women, and Small Businesses.
113	Dianne Lancaster	Oregon Chief Procurement Officer, Department of Administrative Services. Submits written testimony in support of SB 316A (EXHIBIT A) . Says DAS will support state agencies to enact SB 316A.
124	Rep. Holvey	Asks who SB 316A affects.
126	Sen. Gordly	Says that it only affects state agencies.
129	Adkins	Asks if the purpose is to track where the awards went.
133	Muniz	Notes the current statutes implications and says that it is to track information to see if the resources of the Minority, Women, and Small Business program is working.
147	Chair Brown	Closes the public hearing on SB 316A. Opens the work session on SB 316A.

SB 316A – WORK SESSION

149 Rep. Esquivel **MOTION: Moves SB 316A to the floor with a DO PASS recommendation.**

157 **VOTE: 5-0-2**

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

EXCUSED: 2 - Kitts, Schaufler

(NOTE: Please see page 6, tape 149, B, of this tape log for Rep. Kitts and Rep. Schauflers' vote.)

Chair Brown The motion CARRIES.

REP. ESQUIVEL will lead discussion on the floor.

161 Chair Brown Closes the work session on SB 316A. Opens the public hearing on HB 2535.

HB 2535 – PUBLIC HEARING

163 Janet Adkins Committee Administrator. Submits the -1 amendments (**EXHIBIT B**).

173 Rep. Greg Smith House District 57. Speaks in support of HB 2535 with the -1 amendments. States that the Oregon Economic and Community Development Department (OECDD) is incorrectly perceived by people in Oregon.

267 Rep. G Smith Explains the -1 amendments. States that they want to look at what are the best practices in Oregon. Wants to dedicate development to ports and small businesses.

331 Rep. G Smith Talks about how people perceive the OECDD as providing the means for communities in Oregon to carry out their economic development project.

395 Chair Brown Asks what the time frame is.

397 Rep. G Smith States that they are starting when session ends and will complete the report by September 2006.

405	Rep. Gilman	Appreciates the September 1st deadline.
412	Rep. Holvey	Asks how the different regions were developed.
417	Rep. G Smith	Says that the Association of Oregon Counties determined the regions.
423	Rep. Schaufler	Asks if the recommendation from the committee will have to be unanimous or a majority.

TAPE 149, A

003	Rep. G Smith	States that it will be a majority. Says they will attempt to get a consensus.
016	Chair Brown	States that HB 2535 sounds like a very ambitious undertaking.
019	Rep. Gilman	Talks about regional ideas and all the different regions that exist in the state. Wants the committee to look at making the regions uniform for all the state departments.
025	Rep. G Smith	Wants to bring all the departments together to look at the state's development.
045	Lynn Beaton	Oregon Economic and Community Development Department (OECDD). States that the OECDD supports the concept of having a taskforce. Says that the agency is ready to work on the issue. Offers comments on the membership of the taskforce. Wants to ensure that there was a local economic development member on the taskforce and good representation from the entire state. States that one taskforce member should be from the OECDD.
079	Tom Gallagher	Portland Business Alliance, Schnitzer Industries. Speaks in support of HB 2535. Talks about permitting on the state level and the frustration that came from those committees. Indicates that there is a need for an infrastructure that looks at the direction of economic development.
132	Gallagher	Emphasizes that state agencies need to be aligned under the same plan.
143	Rep. Schaufler	

Talks about Connect Oregon and highway projects. Notes that as Oregonians we are not taking advantage of our natural resources. Says that the main argument is about how to use our natural resources.

163 Gallagher Says that in the last thirty years the areas outside of the metropolitan areas have turned into service economies. Indicates that interest groups need to sit down and find some common ground.

191 Chair Brown Closes the public hearing on HB 2535. Opens the work session on HB 2535.

HB 2535 – WORK SESSION

195 Rep. Kitts **MOTION: Moves to ADOPT SB 2535-1 amendments dated 05/26/05.**

197 **VOTE: 7-0-0**

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

200 Rep. Kitts **MOTION: Moves HB 2535 to with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Budget by prior reference.**

204 **VOTE: 7-0-0**

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

 Chair Brown **The motion CARRIES.**

206 Chair Brown Closes the work session on HB 2535. Opens the work session on SB 1006.

SB 1006 – WORK SESSION

214 Janet Adkins Committee Administrator. Explains SB 1006. Submits the -1 amendments **(EXHIBIT C)**.

232 Dugan Petty Department of Administrative Services. States that the -1 amendments are technical amendments and explains them.

250	Rep. Schaufler	MOTION: Moves to ADOPT SB 1006-1 amendments dated 05/26/05.
260	Rep. Gilman	States that 13 senators did not like SB 1006.
266	Chair Brown	States that the objection was to where the forms were going.
273	Rep. Kitts	States that SB 1006 is unnecessary and the existing language is not specific enough.
285	Rep. Esquivel	Shares concern about SB 1006. States that he will give a courtesy vote to get it to the floor and will do some more research before the vote on the floor.
287	Rep. Kitts	States that if the committee has the concerns then it should not go to the floor.
294	Chair Brown	Speaks in support of SB 1006. Talks about the construction in Coos County that has generated extra costs. Believes that SB 1006 will help remedy problems in the state.
309	Rep. Holvey	Believes that SB 1006 “helps keep the worms in the can”.
315		<p>VOTE: 6-1-0</p> <p>AYE: 6 - Esquivel, Gilman, Holvey, Schaufler, Shields, Brown</p> <p>NAY: 1 - Kitts</p>
	Chair Brown	<p>The motion CARRIES.</p> <p>REP. HOLVEY will lead discussion on the floor.</p>
323	Rep. Kitts	Points out that all four republicans on the committee had concerns with SB 1006.
327	Rep. Schaufler	Counters that he has concerns about every bill that passes through the committee.
332	Chair Brown	

Closes the work session on SB 1006. Opens the work session on SB 477A.

SB 477A – WORK SESSION

341 Janet Adkins Committee Administrator. Explains SB 477A. Submits the –A5 amendments **(EXHIBIT D)**.

TAPE 148, B

001 Adkins Continues explaining the –A5 amendments.

016 Jessica Harris Adamson Associate General Contractors. Speaks in support of SB 477A with the -5A amendments. Talks about the bonding portion of the amendments. Explains that today public work contractors are required to post a performance and payment bonds. Says that subcontractors are required by the general contractor to have bonds. Indicates that their goal is to establish a bond that will enable BOLI to make the bond wage claims. Offers to answer any questions.

048 Rep. Esquivel Asks for an explanation of 7(a) on page 2 line 20 to 26.

052 Harris Adamson States that the section allows emerging and small businesses to get on their feet before they are required to have the bond. Notes that often contracts require the use of these small businesses.

065 Rep. Esquivel Asks who determines disadvantaged.

067 Harris Adamson States that the Department of Business and Consumer Services does.

072 Rep. Kitts Shares concern about the same section and asks if it provides an unfair advantage and if it is a public risk for people not to have bonds and how much bonds cost.

088 Harris Adamson States that they are one and two person shops that are trying to establish a business. Believes that it does not cause a disadvantage to other companies because there are broader advantages for other businesses.

106 Rep. Kitts Asks about the consumer protection component of SB 477A.

111	Harris Adamson	Says that there is a requirement that emerging small businesses must inform the general contractor and that the general contractors bond is subject to claims when the subcontractor does not have a bond. Mentions that bonds can cost anywhere from one percent to ten percent of the bonds total amount.
135	Chair Brown	Asks if the bond in SB 477A deals with potential labor claims and not with performance bonds.
136	Harris Adamson	States that he is correct.
137	Rep. Schaufler	Reiterates Chair Brown.
140	Harris Adamson	Notes that SB 447A is only for public works contracts.
144	Chair Brown	Notes that it will help small businesses.
150	Harris Adamson	Believes that SB 477A will provide a level of protection.
159	Rep. Kitts	Asks what would stop the subcontractors from not paying their employees.
171	Harris Adamson	States that kind of scenario is not occurring currently. Believes that general contractors will weed these subcontractors out of the market.
179	Rep. Gilman	Asks about if the \$50,000 upper limit on projects includes the donation level for project materials of \$50,000.
188	Harris Adamson	Says that if the amount of donated materials is under \$50,000 it does not count towards the total \$50,000 limit.
200	Rep. Holvey	Asks about the section at the beginning of page five. Wants to make sure that the wages that are being discussed can be recovered from the general contractor's bond.
213	Harris Adamson	Says that intention of the provision is in line with what Rep. Holvey is saying. States that they are trying to avoid a \$500,000 claim being made.
222	Rep. Holvey	

Indicates that he wants to make sure a \$5,000 wage claim could be made on another bond if one bond does not work.

- 228 Harris Adamson States that SB 477A would allow it. Talks about how it is not a huge shift for general contractors. Notes that BOLI will create two books to look at the state and federal prevailing wage rates so that a public agency only has to determine what kind of project they are staffing.
- 273 Rep. Kitts Asks about section 7A and if any preference is given to emerging small businesses during the bidding process.
- 276 Harris Adamson States that the ability does exist for an agency to give preference to minority and emerging small businesses.
- 303 Rep. Holvey References page 11 line 27 and asks if there is anything in statute that allows action to be taken against subcontractors and general contractors.
- 307 Harris Adamson Says that contractors and subcontractors are required to submit truthful statements and a civil penalty does exist for untruthful statements.
- 340 John Jackley Oregon Department of Transportation (ODOT). Submits written testimony which takes a neutral position on SB 477A (**EXHIBIT E**). Talks about the section that deals with prevailing wages. Says that the construction boom that is coming will cause higher wages. Notes that the requirement for BOLI to put together the information to implement SB 477A will greatly help ODOT.
- 380 Chair Brown Asks if there are ODOT contracts under the \$50,000 threshold.
- 385 Jackley States that most are larger.
- 392 Rep. Kitts Requests information from all the proponents of SB 477A.
- 406 Jon Oshel Association of Oregon Counties. Takes a neutral position of SB 477A. States that their issues with SB 477A have been taken care of.

TAPE 149, B

- 001 Oshel

Talks about the threshold and notes that for 2005 the counties are planning on doing 18 projects that would fall under SB 477A. Says that the volunteer language clarifies a lot of issues.

040 Bob Avery Chief of Staff, Rep. Bruce Hanna, House District 7. Submits and reads written testimony in support of SB 477A **(EXHIBIT F)**. Believes that there is a broad consensus in the workgroup.

100 Rep. Kitts **MOTION: Moves to ADOPT SB 477A-5 amendments dated 05/26/05.**

102 **VOTE: 7-0-0**

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

105 Rep. Kitts **MOTION: Moves SB 477A to the floor with a DO PASS as amended recommendation.**

109 **VOTE: 7-0-0**

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

 Chair Brown **The motion CARRIES.**

REP. BROWN AND REP. HANNA will lead discussion on the floor.

120 Chair Brown Closes the work session on SB 477A. Re-opens the work session on SB 316A for the purpose of allowing Rep. Kitts and Rep. Schaufler to vote.

SB 316A – WORK SESSION

122 Rep. Shields **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. KITTS AND REP. SCHAUFLE to BE RECORDED as voting AYE on the motion to move SB 316A to the floor with a DO PASS recommendation.**

125 **VOTE: 7-0-0**

(NOTE: Please see page 2, tape 148, A, of this tape log for original vote.)

Chair Brown

Hearing no objection, declares the motion CARRIED.

129

Chair Brown

Closes the work session on SB 316A for the purpose of allowing Rep. Kitts and Rep. Schaufler to vote. .Adjourns the meeting at 12:16 p.m.

EXHIBIT SUMMARY

- A. **SB 316, written testimony, Diane Lancaster, 2 pp**
- B. **HB 2535, -1 amendments, staff, 8 pp**
- C. **SB 1006, -1 amendments, staff, 2 pp**
- D. **SB 477, -A5 amendments, staff, 20 pp**
- E. **SB 477, written testimony, John Jackley, 1 p**
- F. **SB 477, written testimony, Bob Avery, 2 pp**