

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

**May 04, 2005 Hearing Room B**

**8:00 A.M. Tapes 114 - 116**

**Corrected 09/30/05**

**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:**

**HB 3319 – Work Session**

**HB 3256 – Work Session**

**HB 2077 – Work Session**

**HB 2669 – Public Hearing and Work Session**

**HB 3017 – Public Hearing and Work Session**

**HB 2525 – Public Hearing**

**HB 3462 – 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 114, A**

003	Chair Brown	Calls the meeting to order at 8:05 a.m. Opens the work session on HB 2077.
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**HB 2077 – WORK SESSION**

008	Janet Adkins	Committee Administrator. Explains HB 2077. States that amendments are being picked up from Legislative Counsel.
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035	John Jackley	States that he has not seen the amendments.
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041	Chair Brown	Closes the work session on HB 2077 and opens the work session on HB 3319.
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**HB 3319- WORK SESSION**

046	Lisa Trussell	Associated Oregon Industries. States that they have reached an agreement with the Bureau of Labor and Industries (BOLI). Talks about getting multiple penalties for the same violations. States that the language is being drafted.
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053	Paul Caster	Edis Healthcare. Talks about people working offsite and that an agreement has been reached with BOLI. States that the agreement details that if an employer makes an estimate of the hours worked, they do not have the timecard for the last paycheck and the estimate is wrong, they are not subject to a penalty if a correct paycheck is issued within five days of receiving the timecard.
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069	Annette Talbot	BOLI. Says that if there are multiple penalties for one paycheck then the employer should only be subject to one penalty and believes that it will help the courts. States that if multiple problems exist with
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multiple paychecks then the business will be subject to multiple penalties.

085            Chair Brown            Closes the work session on HB 3319. Opens the work session on HB 3256.

**HB 3256 – WORK SESSION**

087            Lisa Trussell            Associated Oregon Industries. Speaks in support of HB 3256 with the amendments. States that an agreement has been reached with the Bureau of Labor and Industries (BOLI). Talks about the broadness of definitions regarding an employer in terms of a civil proceedings in ORS 659.230. Says that the protection will exist in civil proceedings against an employer that involve a whistleblowing issue.

102            Annette Talbot            BOLI. Speaks in support of HB 3256 with the amendments. Believes that HB 3256 will clarify the statutes to define what whistleblowing is. Asserts that HB 3256 with the amendments will still create the ability for someone to come forward and talk about an industry problem.

115            Rep. Shields            Asks if the amendments would weaken the protections afforded to the legal and accounting professions if they blew the whistle on their client.

120            Talbot            States that the amendments would not weaken those protections.

122            Rep. Schaulfer            Thanks BOLI and AOI for working so well together.

125            Rep. Holvey            Asks what the status would be for an employee who is whistleblowing on an employer who does not directly employ the employee.

131            Talbot            Maintains that an employee will still be able to whistleblow on employers who are not their direct employer and the protections will not change.

138            Chair Brown            Asks when the amendments will be ready.

139            Trussell            Does not know.

140            Chair Brown

Closes the work session on HB 3256. Opens the work session on HB 2077.

### **HB 2077 – WORK SESSION**

149	Janet Adkins	Committee Administrator. Submits the -3 amendments ( <b>EXHIBIT A</b> ).
151	Jessica Harris Adamson	Associated General Contractors. Talks about how any price change above 10 percent in steel materials will activate a renegotiation of the contract. Notes that a contractor has to provide invoices to prove that the price change has occurred. Says that the rule making process is open for the Oregon Department of Transportation (ODOT).
177	Rep. Gilman	Asks what happens if the price change is below ten percent.
180	Harris Adamson	States that the contract is not renegotiated.
182	Rep. Holvey	Asks if HB 2077 applies to contracts with agencies other than ODOT.
185	Harris Adamson	Says that HB 2077 only applies to ODOT. States that contractors who only work for ODOT are the ones who have raised the concern.
197	Rep. Holvey	States that the rapid change in steel prices seems as though it would be an issue for other contractors that are working with other state agencies.
202	Harris Adamson	Says that they have not heard those concerns from other contractors.
211	Rep. Esquivel	Asks how the ten percent is calculated.
213	Harris Adamson	States that the contractors keep long records of quotes and invoices. Asserts that the specific price will be easily calculated from the contractors' records.
226	Rep. Esquivel	Asks if HB 2077 could be used as a leverage tool for under bidding steel to get a contract and then renegotiating it with ODOT once the contractor gets the contract.
230	Harris Adamson	

Anticipates that the scenario is unlikely because the Steel Escalation Clause will be put into ODOT's contracts starting several weeks after HB 2077 passes.

- 236 Rep. Esquivel Asks if the Steel Escalation Clause will be in future bids.
- 237 Harris Adamson Affirms that statement. States that section 2(4) says that once the Steel Escalation Clause is in place then HB 2077 no longer applies to contracts.
- 256 Jon Jackley ODOT. States that they are comfortable with the amendments.
- 260 Rep. Esquivel **MOTION: Moves to ADOPT HB 2077-3 amendments dated 05/04/05.**
- 261 **VOTE: 7-0-0**
- Chair Brown **Hearing no objection, declares the motion CARRIED.**
- 264 Rep. Esquivel **MOTION: Moves HB 2077 to the floor with a DO PASS AS AMENDED recommendation.**
- 268 Chair Brown States that HB 2077 will have a fairly sizable fiscal impact that will need to be explained on the floor.
- 273 **VOTE: 7-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- Chair Brown **The motion CARRIES.**
- REP. ESQUIVEL will lead discussion on the floor.**
- 280 Chair Brown Closes the work session on HB 2077. Opens the public hearing on HB 2669.

#### **HB 2669 – PUBLIC HEARING**

- 301 Paul Romain Oregon Petroleum Association. Speaks in support of HB 2669 with the -3 amendments.

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| 312 | Janet Adkins | Committee Administrator. Explains HB 2669 and submits the -2 and the -3 amendments <b>(EXHIBIT B and C)</b> . Submits written testimony on the behalf of Richard McHale <b>(EXHIBIT D)</b> .   |
| 354 | Romain       | Reads from existing law in section one of HB 2669. Talks about financial stability requirements for service agreements being too burdensome, which has caused people to create service contracts without insurance. States that people have been creating illegal service agreement contracts. Notes that HB 2669 was created to solve these two problems. Indicates that he does not support -2 amendments submitted by Mr. McHale. |

**TAPE 115, A**

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| 001 | Romain         | Explains the -3 amendments and says that they cover the home service agreements as currently covered in ORS 731.164. Urges the committee to adopt the -3 amendments and pass HB 2669. Needs a way to allow for the service contracts without requiring very expensive insurance while still offering consumer protection.  |
| 023 | Rep. Schaufler | Asks if the -3 amendments would still protect small businesses.  |
| 028 | Romain         | States that the -3 amendments will still protect small businesses.   |
| 040 | Adkins         | States that the original bill did exempt all businesses and that is why the -2 amendments are being proposed to make a slight change to the original bill.   |
| 044 | Romain         | Notes that the original bill was a concept and a result of taking Washington law and bringing it to Oregon.  |
| 073 | Richard McHale | McHale Warranty Group. Believes that the -2 amendments fixes a flaw in HB 2669. Talks about how Washington has had some problems with the law because it makes it more expensive to sell the businesses.   |
| 094 | Carl Lundberg  | Deputy Administrator, Department of Consumer and Business Services. Submits written testimony on the behalf of Joel Ario <b>(EXHIBIT I)</b> . Talks about issues with the -2 amendments. States that the second approach on the -2 amendments are not supported by the department. States that the -3 amendments would allow a person who is selling home service agreements to post a bond in a different way than is currently done under home service agreements. Says that |

the bond has a private right of action attached to it with attorney fees and believes that it will provide adequate consumer protection.

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| 126 | Rep. Schaufler | Asks if consumers means homeowners and small businesses.  |
| 128 | Lundberg       | Notes that consumer does mean both groups. Says that a small business would have to have a \$25,000 bond.                               |
| 135 | Rep. Schaufler | Clarifies that a small business person is protected.  |
| 136 | Lundberg       | States that a small business is protected by the existing system that is in place, which is why DCBS wants the system to stay the same. |
| 138 | Rep. Schaufler | Asks if the -3 amendments change the current system for small businesses' service agreements.   |
| 139 | Lundberg       | States that the -3 amendments do not change the current system.   |
| 143 | Chair Brown    | Closes the public hearing on HB 2669 and opens the work session on HB 2669.   |

#### **HB 2669 – WORK SESSION**

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| 146 | Rep. Kitts | <b>MOTION: Moves to ADOPT HB 2669-3 amendments dated 05/02/05.</b> |
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| 148 |  | <b>VOTE: 7-0-0</b> |
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	<b>Chair Brown</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
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| 151 | Rep. Kitts | <b>MOTION: Moves HB 2669 to the floor with a DO PASS AS AMENDED recommendation.</b> |
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| 155 |  | <b>VOTE: 7-0-0</b> |
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	<b>AYE:</b>	<b>In a roll call vote, all members present vote Aye.</b>
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	<b>Chair Brown</b>	<b>The motion CARRIES.</b>
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160	Rep. Kitts	<b>MOTION: Moves HB 2669 be placed on the CONSENT CALENDAR.</b>
162		<b>NAY: 1 - Shields</b>
	Chair Brown	<b>The motion FAILS.</b>  <b>REP. SHIELDS will lead discussion on the floor.</b>
170	Chair Brown	Closes the work session on HB 2669. Opens the public hearing on HB 3017.

### **HB 3017 – PUBLIC HEARING**

185	Janet Adkins	Committee Administrator. Explains HB 3017.
200	Jerod Broadfoot	National Electrical Contractors Association. Says that HB 3017 clarifies current law. States that if a contractor is found guilty of a crime by the Department of Consumer and Business Services (DCBS) then the penalty begins when the individual is convicted.
218	Rep. Schaufler	Asks if the contractor can keep their license if the person is found innocent.
220	Broadfoot	States that Rep. Schaufler is correct.
224	Jessica Harris Adamson	Associated General Contractors. Explains the history of the Public Payment Law (1999) that is being amended by HB 3017. Believes that there are concerns on a broader scale with the Public Payment Law and hopes that the committee will not just fix one part of the law.
254	Chair Brown	Closes the public hearing on HB 3017. Opens the work session on HB 3017.

### **HB 3017 – WORK SESSION**

255	Rep. Kitts	<b>MOTION: Moves HB 3017 to the floor with a DO PASS recommendation.</b>
257	Rep. Kitts	



Urges the 2007 House Business Committee to listen to Ms. Harris Adamson's additional concerns about the Public Payment Law (1998).

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**VOTE: 7-0-0**

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

**Chair Brown**

**The motion CARRIES.**

276

**Rep. Kitts**

**MOTION: Moves HB 3017 be placed on the CONSENT CALENDAR.**

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**VOTE: 7-0-0**

**Chair Brown**

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

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**Chair Brown**

Closes the work session on HB 3017. Opens the public hearing on HB 2525.

### **HB 2525 – PUBLIC HEARING**

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**Janet Adkins**

Committee Administrator. Explains HB 2525. Submits the -1 amendments and the -2 amendments **(EXHIBIT J and E)**.

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**Scott Barrie**

Oregon Homebuilders Association. Speaks in support of HB 2525. Wants the committee to move the original HB 2525. States that an offer can be made on a home and then the repairs can begin.

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**Rep. Kitts**

States that he gets nervous when the committee is asked to pass HB 2525 so that it can be amended in the Senate. Asks what the concern with HB 2525 is. Asks if the concern is that a homeowner cannot sue a contractor if they begin the mediation process and the homeowner rejects the repairs that the contractor wants to make.

390

**Barrie**

States that the -1 amendments were meant to solve the problem of homeowners not being able to sue the contractor. Notes that the -1 amendments would complicate and possibly make the process more expensive for the consumer. Wants to give consumers an option to sue the contractor and needs amendments that will address this concern.

404	Rep. Kitts	Asks why the amendments cannot be done on the House side.
406	Barrie	Mentions that the time constraint is of concern to him.
415	Chair Brown	Asks how much time is needed to create the amendments.

**TAPE 114, B**

004	Kristin Leonard	Oregon Trial Lawyers Association (OTLA). States that they need a week to look at how the -1 amendments came out and then they can come back with amendments.
012	Rep. Esquivel	Asks what the issue is with the -1 amendments.
026	Leonard	Says that they are trying to determine if it puts a cost burden on the consumer and wants to fine tune some of the elements in HB 2525. Shares concerns about the way the process is put together in the -1 amendments.
035	Rep. Schaufler	Asks if Ms. Leonard and Mr. Barrie are opposed to moving HB 2525 out of committee with the -1 amendments.
036	Kristin	States that the OTLA is opposed to moving HB 2525 out of committee with the -1 amendments.
038	Barrie	Wants HB 2525 to be moved without the -1 amendments.
052	Craig Smith	Construction Contractors Board (CCB). Shares concerns that they are exceeding the one year limitation on seeking action against contractors. Explains the current mediation process between contractors and the people who have employed them.
070	Kevin Neeley	Concerns about significant amounts of damages on multiple contractors' projects. Shares concern that people may not be able to sue contractors once they have entered into the reconciliation process. States that they are uncomfortable with HB 2525 and the -1 amendments. Believes that it is beneficial to keep the process outside of the courtroom. States that the consumer has to bear the entire cost of the investigation and none of the costs are born by the contractor.
115	Rep. Schaufler	

States that something can only be repaired once. Asks if it is constitutional to deny someone the ability to go to court.

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| 125 | Neeley         | Says that he has not looked at the bill closely but knows that there are instances in the law that say that you have to go through a certain process before another legal action can be taken. Offers to get the information for the committee. |
| 135 | Rep. Schaufler | States that he has no problems moving HB 2525 but says he will not carry it on the floor.   |
| 137 | Chair Brown    | Closes the public hearing on HB 2525 and opens the public hearing on HB 3462.   |

#### **HB 3462 – PUBLIC HEARING**

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| 143 | Janet Adkins  | Committee Administrator. Explains HB 3462. Notes that it has a referral to Ways and Means.  |
| 160 | Rep. John Lim | House District 50. Speaks in support of HB 3462. Says that he was a co-sponsor of the original Jobs Plus bill in the 1993 Oregon Legislative Session. Believes that the Job Plus program is working well. Notes that it creates an incentive for employers to form new positions for employees. |
| 233 | Marc Kane     | Chair, Klamath and Lake County Jobs Plus Program. Submits and reads written testimony in support of HB 3462 ( <b>EXHIBIT F</b> ). Talks about resistance to the Job Plus program. Talks about the devastating effect of unemployment on the state of Oregon.                                    |
| 280 | Kane          | Talks about the negative effects of unemployment on individuals' health and society at large. Says that Job Plus has employed 7,000 people.   |
| 330 | Kane          | Continues reading from written testimony.   |
| 380 | Kane          | Continues reading from written testimony.   |

#### **TAPE 115, B**

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| 001 | Kane | Continues reading from written testimony. |
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034	Rep. Schaufler	Speaks in opposition to HB 3462. Believes that the money can be used. States that he knows that there are success stories. Emphasizes that he supports working families.
046	Kane	States that unions have been in opposition to HB 3462.
050	Joe Spendolini	Chair, Klamath and Lake County Jobs Plus Council. Submits and reads written testimony in support of HB 3462 ( <b>EXHIBIT G</b> ). Talks about the benefits of the Job Plus Program. Notes that the Jobs Plus Program costs less per week in benefits than an average week of Unemployment Insurance.
090	Rep. Shields	Asks if 68% of employees stay on the job with the Job Plus employment.
094	Kane	States that 68% relates to being on any job after twelve months.
097	Rep. Shields	Asks if the 12 months is when they are working for the employer and not the Jobs Plus Program.
100	Kane	Says that they reported that 80% of the people stayed on the job at the end of the training period and says that the 12 months begins when they complete the Job Plus training period.
107	Rep. Esquivel	States that some people just want a chance to be employed. Believes that the private sector needs to be taught to utilize the program.
114	Kane	Affirms Rep. Esquivel's statement.
119	Chair Brown	Asks when authorization for the program will expire.
120	Kane	Says that it will continue until the funds are exhausted, which will be at the end of the 2005 fiscal year.
126	Rep. Shields	Asks what the total cost is per participant.
130	Kane	States that the administrative cost of the program is \$666 per participant and \$5 per hour worked.
143	Lisa Trussell	

Associated Oregon Industries. Speaks in support of HB 3462. Believes that the Jobs Plus Program is another tool that the Employment Department can use to help unemployed individuals return to work.

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| 150 | Chair Brown    | Asks if any other programs exist to help unemployed people.  |
| 153 | Trussell       | Talks about the I-match online. Says that the One Stop are also part of the Employment Departments program as well.  |
| 166 | Debbie Lincoln | Director, Employment Department. Submits written testimony in opposition to HB 3462 ( <b>EXHIBIT H</b> ). Notes that the Employment Department did not request funding in the 2005-2007 Governor's Recommended Budget for the Jobs Plus Program. Says that the program costs \$12 million a year and the funds are taken from the Unemployment Insurance Trust Fund. Notes that taking the funds from the trust fund leads to an increase in unemployment taxes. States that the program is not used well by claimants or employers. |
| 202 | Gwyn Harvey    | Chairman, Employment Advisory Council. Speaks in opposition to HB 3462. Says that employers would experience a tax increase if the Job Plus Program is reauthorized. Notes the process that the council went through when evaluating whether or not to support the continuation of the Job Plus Program. States that the council voted to oppose the Job Plus Program.   |
| 253 | Tim Nesbitt    | President, Oregon AFL-CIO. Speaks in opposition to HB 3462. States that the Job Plus program is not a legal use of the unemployment trust fund under federal law. Notes that Oregon has one of the best Unemployment Insurance Trust Funds.  |
| 303 | Nesbitt        | Reiterates that employers would experience a tax increase if the Job Plus program is reauthorized. Mentions that the administrative cost is higher than other job placement programs run by the Employment Department. States that Cirque du Soleil received subsidies from the Job Plus Programs.   |
| 356 | Rep. Kitts     | Asks what SITEL is.  |
| 360 | Lincoln        | Offers to get the information for the committee.   |
| 362 | Rep. Kitts     | Asks if the majority of Job Plus jobs are minimum wage jobs.   |

374	Lincoln	States that the majority of the jobs are minimum wage.
389	Rep. Kitts	Asks what stops an employer from starting an additional 13 week period for the same employee.
406	Lincoln	States that nothing stops an employer from “turning through” an employee. Notes that one of the issues with the program is that the Employment Department cannot audit employers to ensure the Jobs Plus Program is being used properly.
420	Rep. Kitts	Shares a concern that the program can be abused and employers can use the state as a temporary employment agency. Believes that people are not being trained in the Job Plus Program. Asks if the goals of the program are being implemented.
470	Lincoln	Believes that the program is not being used properly.
475	Rep. Esquivel	Asks whose responsibility it is to educate people about the Jobs Plus Program.

#### **TAPE 116, A**

001	Lincoln	States that they provide information for every claimant and staff continually provides information to the businesses about the program.
007	Rep. Esquivel	Talks about MasterBrand Cabinets and how he utilized the program. Shares a concern that he was never approached by the employment department about the Jobs Plus Program.
011	Lincoln	States that the cost is high for the program and aim for the 4,000 placement would require a more extensive marketing effort.
016	Rep. Shields	Asks if the \$2,600 per placement includes the cost of temporary agencies, who act as the connection between Jobs Plus workers and employees.
026	Lincoln	States that the \$2,600 does not include those costs.
028	Chair Brown	Asks if there is a program to move people from welfare to the workforce.

035	Lincoln	Talks about the Jobs Plus Human Resources Program in the Department of Human Service and how no plans to change the program for the 2005-2007 biennium exist.
046	Rep. Holvey	Shares concern that 98% of companies are subsidizing a \$5 per hour subsidy for 2% of companies. Notes that he is not seeing job creation due to the Jobs Plus Program. Asks if that is the Employment Department's concern.
058	Lincoln	States that is the department's concern.
065	Chair Brown	Closes the public hearing on HB 3462. Adjourns the meeting at 10:12 a.m.

## **EXHIBIT SUMMARY**

- A. HB 2077, -3 amendments, staff, 2 pp
- B. HB 2669, -2 amendments, staff, 1 p
- C. HB 2669, -3 amendments, staff, 4 pp
- D. HB 2669, written testimony of Richard McHale, 3 pp
- E. HB 2525, -2 amendments, staff, 6 pp
- F. HB 3462, written testimony, Marc Kane, 6 pp
- G. HB 3462, written testimony, Joe Spendolini, 1 p
- H. HB 3462, written testimony, Debbie Lincoln, 3 pp
- I. HB 2669, written testimony, Joel Ario, 3 pp
- J. HB 2525, -1 amendments, staff, 6 pp