

HOUSE COMMITTEE ON ENVIRONMENT

May 26, 2005 Hearing Room D

1:00 P.M. Tapes 63 - 64

MEMBERS PRESENT: Rep. Gordon Anderson, Chair

Rep. Mary Nolan, Vice-Chair

Rep. Phil Barnhart

Rep. Bill Garrard

Rep. John Lim

Rep. Diane Rosenbaum

MEMBER EXCUSED: Rep. Bob Jenson, Vice-Chair

MEMBERS VISITING: Rep. Chuck Burley

Rep. Paul Holvey

STAFF PRESENT: John Houser, Committee Administrator

Mike Reiley, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3328 – Public Hearing

SB 496 – 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

TAPE 63, A

003 Chair Anderson Calls the meeting to order at 1:33 p.m. Opens a public hearing on HB 3328.

HB 3328 – PUBLIC HEARING

015 John Houser Committee Administrator. Introduces HB 3328 and the -5 amendments (**EXHIBIT A**) and the -6 amendments (**EXHIBIT B**).

040 Jessica Harris-Adamson Associated General Contractors. Explains concerns about apprenticeship requirements in the bill, notes that the language has been removed and speaks in favor of the -5 amendments.

080 Harris-Adamson Testifies in opposition to the -6 amendments.

091 Stephen Kafoury Johnson Controls, Inc. Explains the competitive bidding process. Explains and testifies in support of the -6 amendments.

135 Kafoury Explains energy performance saving contracts and the importance of being involved in the operations and maintenance throughout the project.

152 Kafoury Explains the guarantee that savings from the work that is done will cover the cost of the project and the contractor will pay the difference when energy savings do not meet projections. Notes that the intent of the bill is to save energy, it will be achieved by the -6 amendments and that it is voluntary.

191 Chair Anderson Asks if the -5 amendments contain any contractor guarantees for energy savings.

194 Harris-Adamson Answers that they do not address energy savings performance contracts. Explains that the contracting process is already voluntary.

218 Kafoury

Explains that in states that have more open contracting laws will have more energy performance contracts.

- 232 Bill Foster Administrator, Facilities Division, Department of Administrative Services (DAS). Testifies that a process already exists for energy performance contracts on new construction and that it is inappropriate to expand it into existing buildings.
- 275 Dana Anderson Co-chair, Design and Construction Practice Group, Oregon Department of Justice (DOJ). Testifies that the new public contracting code specifies how the competitive proposal process works.
- 300 Rep. Barnhart Asks for an explanation of the model rules process.
- 304 Foster Explains the statutory changes from the 2003 legislative session that created a definition of energy savings performance contracting and directed DOJ to create model rules around the definition.
- 315 Rep. Barnhart Asks if the bill contradicts the model rules or would require them to be re-written.
- 333 Foster Answers that it would require the model rules to be changed. States that the changes would give agencies less choice in performance contracting.
- 345 Rep. Barnhart Asks for the specific language in the bill.
- 349 Anderson Cites specific language in the bill. States that the model rules will be changed at the end of the current legislative session.
- 367 Rep. Barnhart Asks what language in the bill is causing concern.
- 370 Anderson Answers that he has not examined the bill closely and does not want to be too proscriptive.
- 374 Rep. Barnhart Asks how the model rules address the issues raised in section 5.
- 380 Foster Answers that the contracts save money over time, rather than a cash payments to the agencies.

405	Rep. Barnhart	Asks if there is a different way to get to the same result or if it is getting to a different result.
410	Foster	Answers that the intent is to save energy and there are many ways to achieve energy savings.
414	Rep. Barnhart	Clarifies Mr. Foster's objections to the bill.
418	Foster	Concurs with Rep. Barnhart's clarification.

TAPE, 64, A

003	Rep. Nolan	Clarifies that there is no requirement for an agency to enter into a contract.
006	Foster	Answers yes.
010	Rep. Nolan	Clarifies that obtaining a general obligation bond requires a guarantee as a condition of having access to the bond.
015	Foster	Explains the general obligation bond process and the effect on contracting.
023	Rep. Nolan	Notes that restrictions have been placed on other debt instruments of the state.
032	Foster	Explains seed loans and the monitoring that is done to ensure repayment.
040	Rep. Nolan	Asks what other methods exist to achieve the same goal of contracting.
043	Foster	Explains the guarantee for the contracts and the benefit of the savings.
051	Rep. Nolan	Asks about the effect on public agencies of entering into such contracts.
067	Foster	Describes the work of public agencies entering into contracts. Explains the work done with the state of Washington and pilot programs that have resulted in the model rules.

070	Rep. Nolan	Asks for documentation of energy savings that have already been achieved by public agencies.
083	Foster	Clarifies the type of contracting done and contractors used and the results that have been achieved.
096	Rep. Garrard	Asks if the -6 amendments expand the ability of agencies to enter into a contract that would offer a guarantee without cost.
103	Foster	Responds that contracts can be done without cost and notes that there is a question as to how to achieve the best value.
110	Rep. Lim	Asks what happens if a company receives a contract, goes bankrupt and is unable to pay its obligations.
117	Foster	Answers that he is unaware of such occurrences.
120	Rep. Lim	Asks for an explanation of the contractors' guarantees of paying for cost shortfalls.
130	Foster	Explains the cost shortfall guarantee and how it would be set up to cover costs.
138	Rep. Lim	Cites the language "performance bonds or other securities" and asks what is meant by "other securities."
144	Foster	Answers that he does not know.
147	Kafoury	Explains the other securities and the kinds of bonds specified in the bill.
168	Rep. Lim	Asks how long it takes to recover investment in an energy savings contract.
173	Kafoury	Answers that the time period depends on the state of facilities and the amount of energy that could be saved.
188	Chair Anderson	Notes that the savings also depend on the size of the contract.

192	Anderson	Explains the process for issuing performance savings bonds.
212	Kafoury	Notes that if the language “other securities” is a problem, it could be removed.
217	Rep. Lim	Asks how the maximum amount of payments is determined. States that he is supportive of the bill as long as the bond is fully guaranteed.
226	Kafoury	Answers that maximum amount is intended to mean 100 percent.
228	Rep. Lim	Clarifies that if a school district invests one million dollars, the bond total should be one million dollars as well.
230	Kafoury	Answers yes.
234	Rep. Brad Witt	House District 31. Clarifies language in the bill with the -4 amendments (EXHIBIT C) that the word “onsite” would be removed.
267	Rep. Garrard	Asks if savings would go to the district instead of the taxpayers if a school district obtains a \$5 million bond.
277	Kafoury	Answers that if a school district obtains a \$5 million bond, they will save \$6 million and pay off the bond and have money to put toward improvement projects.
285	Rep. Garrard	Asks who pays back the taxpayers.
288	Kafoury	Answers that the bond does not need to be general obligation. Explains the bonding process for the energy savings contracts.
305	Rep. Garrard	Asks if money would be returned to the taxpayers.
308	Kafoury	Further explains the bonding process. Explains the contracting work done with the Oregon Department of Corrections and the savings that resulted.
329	Rep. Garrard	Argues that if a school district owns buildings and enters into contracts, the money is not going back to the same entity.

338	Kafoury	Offers clarification of the money savings for agencies. Explains the intent of the bill.
348	Chair Anderson	Asks for a clarification of the costs associated with contracting.
352	Kafoury	Answers that there will still be savings and explains the costs.
372	Chair Anderson	Closes the public hearing on HB 3328. Opens a public hearing on SB 496. Recesses the meeting at 2:29 p.m. Reconvenes the meeting at 2:34 p.m.

SB 496 – PUBLIC HEARING

380	Rep. Paul Holvey	House District 8. Submits and summarizes prepared information in support of SB 496 (EXHIBIT D).
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TAPE, 63, B

035	Bill Kluting	Western Council of Industrial Workers. Testifies in support of SB 496.
045	Robb Courtney	Parks Manager, City of Gresham. Testifies in support of SB 496.
064	Bob Keefer	Willamalane Park & Recreation District. Testifies in support of SB 496. Explains the importance of parks and preserving land from development.
127	Rep. Lim	Asks for the ratio of federal to state funding.
130	Keefer	Answers that it is 75 to 25 percent.
132	Rep. Lim	Asks if any state money is involved.
135	Keefer	Answers that there is little state money involved and explains the funding.
138	Rep. Lim	Cites the chart “Summary of Forest Legacy Program Accomplishments” and wonders why Washington has received more than \$16 million while Oregon has not received any. States support for the bill.

148	Rep. Garrard	Asks who owns most of the forest land surrounding the area in the Eugene/Springfield area cited by Mr. Keefer.
150	Keefer	Answers that it is owned by the Jaqua family.
153	Rep. Barnhart	Asks if the federal money will be spent one way or another.
156	Courtney	Answers yes.
162	Rep. Barnhart	Asks if the Jaqua family would have money to invest in other parts of the economy under the program.
168	Keefer	Answers yes, but notes that the same could be achieved under other conservation programs.
172	Rep. Barnhart	States that funding for park lands could be used for economic development.
180	Rep. Chuck Burley	Asks about funding for the Forest Legacy Program and notes that President Bush has included \$80 million in the 2006 budget for the program.
191	Rep. Lim	Notes the work of U.S. Senator Gordon Smith to procure the funds for Oregon.
200	Ted Lorensen	Assistant State Forester, Oregon Department of Forestry. Submits and summarizes prepared testimony and information regarding SB 496 (EXHIBIT E) .
305	Rep. Burley	Asks for an elaboration of the criteria for landowners to be involved in the Forest Legacy Program.
312	Lorensen	Explains the criteria for participation in the program.
324	Rep. Burley	Asks who is involved in the assessment of need and who approves it.
330	Lorensen	Answers that the assessment of need was set by the Oregon Department of Forestry committee, approved by the state forester, and submitted to the Secretary of Agriculture. Explains the process for making changes.

344	Rep. Burley	Asks about the range of options for implementing the program and public versus private ownership.
354	Lorensen	Explains that there is a large range of options. Notes that there could be conservation easements in the Jaqua family case.
388	Rep. Burley	Notes cases in which conservation dollars were brought into maintain old-growth forests. Asks how the range of options could be limited and by whom.
400	Lorensen	Explains the authority of the Forest Practices Act.
420	Rep. Rosenbaum	Asks what the earliest opportunity would be to apply for grants through the program.
425	Lorensen	Estimates that it would likely be a couple federal fiscal years.

TAPE, 64, B

016	Rep. Rosenbaum	Asks why applications through the program were stopped.
019	Lorensen	Explains the program and the approval process.
027	Rep. Rosenbaum	Asks if the problem was having no authorizing legislation or the decision of the emergency board to not approve the request.
030	Lorensen	Answers that the emergency board did not approve the expenditures.
035	Rep. Holvey	Asks if there could be multiple goals to preserve working forests and maintain conservation.
038	Lorensen	Answers that the project could be adapted to meet a number of different goals at the direction of the legislature.
055	Rep. Holvey	Asks if project could move forward with assessments of need while waiting for the new goals are established.
065	Lorensen	Answers yes. Explains agency priorities and hopes that they would not be political.

086	Chair Anderson	Asks about the federal government paying for people to continue to own their own land.
090	Lorensen	Explains the restrictions and the process for maintaining easements.
105	Chair Anderson	Asks what costs would be involved if the bill was passed.
110	Lorensen	Answers that it would be \$10,000 to \$20,000 to update the assessments of need.
117	Rep. Lim	Asks if the referral to the Ways and Means committee could be rescinded.
122	Chair Anderson	Answers that it is possible.
126	Kelly Brooks	Legislative Analyst, City of Eugene. Testifies in support of SB 496. Explains that the U.S. Forest Service is compiling a list of projects for the 2007 budget in September.
156	Scott Duckett	Natural Resource Manager, City of Eugene. Submits and summarizes prepared testimony in support of SB 496 (EXHIBIT F).
175	Adam Novick	Private Landowner, Eugene. Submits and summarizes prepared testimony in support of SB 496 (EXHIBIT G).

The following information is submitted without public testimony:

	Nan Evans	Government Relations Director, The Nature Conservancy. Submits prepared testimony in support of SB 496 (EXHIBIT H).
	Rep. John Lim	Submits prepared information in support of SB 496 (EXHIBIT I).
228	Chair Anderson	Closes the public hearing on SB 496. Adjourns the meeting at 3:17 p.m.

EXHIBIT SUMMARY

- A. **HB 3328, -5 amendments, staff, 1 p**
- B. **HB 3328, -6 amendments, staff, 10 pp**
- C. **HB 3328, -4 amendments, staff, 1 p**
- D. **SB 496, prepared information, Rep. Paul Holvey, 9 pp**
- E. **SB 496, prepared testimony and information, Ted Lorensen, 53 pp**
- F. **SB 496, prepared testimony, Scott Duckett, 1 p**
- G. **SB 496, prepared testimony and information, Adam Novick, 2 pp**
- H. **SB 496, prepared testimony, Nan Evans, 1 p**
- I. **SB 496, prepared information, Rep. John Lim, 1 p**