

**HOUSE COMMITTEE ON ENVIRONMENT**

**May 03, 2005 Hearing Room D**

**1:00 P.M. Tapes 47 - 48**

**MEMBERS PRESENT:           Rep. Gordon Anderson, Chair**

**Rep. Bob Jenson, Vice-Chair**

**Rep. Mary Nolan, Vice-Chair**

**Rep. Phil Barnhart**

**Rep. Bill Garrard**

**Rep. John Lim**

**Rep. Diane Rosenbaum**

**STAFF PRESENT:           John Houser, Committee Administrator**

**Mike Reiley, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2507 – Work Session**

**Introduction of Committee Bill – Work Session**

**HB 3328 – 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 47, A**

003 Chair Anderson Calls the meeting to order at 1:12 p.m. Opens a public hearing on HB 2507.

**HB 2507 – WORK SESSION**

010 Rep. Nolan **MOTION: Moves HB 2507 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**

018 Rep. Jenson Speaks in favor of the bill.

**VOTE: 7-0-0**

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

**Chair Anderson The motion CARRIES.**

**REP. GREENLICK will lead discussion on the floor.**

038 Chair Anderson Closes the work session on HB 2507. Opens a work session on the introduction of a committee bill.

**INTRODUCTION OF COMMITTEE BILL – WORK SESSION**

042 Rep. Jenson **MOTION: Moves LC 3612 BE INTRODUCED as a committee bill.**

**VOTE: 7-0-0**

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

050 Chair Anderson Closes the work session. Opens a public hearing on HB 3328.

**HB 3328 – PUBLIC HEARING**

056 Rep. Brad Witt House District 31. Testifies in support of HB 3328. Discusses the financial savings from energy efficiencies and using the savings to train workers in energy efficient construction practices.

073	Rep. Garrard	Asks about a possible fiscal impact and costs associated with the bill.
076	Rep. Witt	Notes that the -1 amendments ( <b>EXHIBIT B</b> ) eliminate the fiscal impact.
086	Stephen Kafoury	Johnson Controls. Testifies in support of HB 3328. Explains the cost-saving opportunities with implementing energy efficiencies through the use of energy savings performance contracts.
127	Chair Anderson	Asks if such contracts are being implemented in cities, counties and school districts.
130	Kafoury	Responds that it is used in some areas, but it should be more widely implemented. Notes the letter of support from Bill Kennemer, Clackamas County Commissioner ( <b>EXHIBIT C</b> ).
145	David Bell	Johnson Controls. Submits and begins summarizing PowerPoint presentation regarding performance contracting ( <b>EXHIBIT D, Page 1</b> ).
175	Chair Anderson	Asks who pays the capital costs.
180	Bell	Answers that they are paid by the contracting agencies.
182	Chair Anderson	Asks who pays off the bond.
184	Bell	Answers that the bond is paid by the contracting agencies through energy savings.
186	Chair Anderson	Clarifies that the agencies receive a less-costly energy bill each month and use the savings to pay off the bond.
188	Bell	Answers yes and continues the summary ( <b>EXHIBIT D, Page 2</b> ).
205	Chair Anderaon	Asks how long the contracts are in effect.
207	Bell	Answer that it depends on energy efficiency and budget uncertainties. Continues the summary ( <b>EXHIBIT D, Page 2</b> ).
249	Bell	Continues the summary ( <b>EXHIBIT D, Page 3</b> ).

271 Rep. Nolan Asks about the JCI Guarantee Resume (**EXHIBIT D, Page 3**) and if Johnson Controls would write a check for the difference if agencies did not save money.

278 Bell Answers yes and explains that Johnson Controls would write a check then work to achieve the energy savings that were promised.

288 John Houser Committee Administrator. Asks if state agency contract administrators have examined the contract language and if it is acceptable.

291 Kafoury Answers yes and explains that the Oregon Department of Energy will testify later.

307 Houser Asks how energy savings contracts address fluctuations in energy prices.

316 Bell Answers that the energy consumption would be kept at a set level and the savings would be measured as a percentage. Explains the -1 amendments (**EXHIBIT B**).

340 Kafoury Clarifies the language in the -1 amendments (**EXHIBIT B**).

350 Bell Continues the summary of the slide “House Bill 3328” (**EXHIBIT D, Page 3**).

414 Rep. Lim Asks if any other companies enter into performance savings contracts.

418 Bell Answers yes. Notes that Siemens does. Explains that energy savings contracting organizations are new.

**TAPE 48, A**

020 Kafoury Explains government procurement and energy savings performance contracts.

033 Rep. Nolan Asks if the -1 amendment would preclude a public agency from conducting request for qualifications review or qualitative competition among potential businesses.

040	Kafoury	Explains that the exemption from the bidding process would allow the agency to have the flexibility to set a contract to address energy problems.
051	Rep. Nolan	Asks if agencies would be allowed to do a comparison and give preference to a company that promises long-term savings.
061	Kafoury	Answers yes but explains how difficult it would be to do a comparison.
070	Randy Harvey	Director, Human Resources, Tigard/Tualatin School District. States that the school district is in its third performance savings contract. Explains the direct energy savings to the district.
135	Rep. Jenson	Asks if Johnson Controls works with the private sector.
139	Bell	Answers yes.
147	Rep. Jenson	Asks why a bill is necessary if it is already being done.
156	Harvey	Answers that the statute was vague and costing school districts money by having inexpensive work done that do not always operate at peak efficiency.
186	Kafoury	Explains that the bill gets the Oregon Department of Energy (DOE) involved in the energy saving process.
194	Rep. Jenson	States that a private sector comparison would be helpful to examine the claims of savings asserted by Johnson Controls.
229	Kafoury	Notes that private industry is not required to be under restrictions for products and services. Argues that DOE should have the information to make decisions.
258	Harvey	Explains that the school districts look to enter into long-term contracts for products and services to build in training for employees to maintain equipment. Points out that school districts have very specific budget issues.
280	Rep. Barnhart	

Asks what requirements exist to allow contracting agencies to know that a company will be in business long enough to deliver on the terms of the contract.

- 297 Kafoury Answers that there is nothing that provides guarantees and leaves the discretion to the contracting agencies.
- 303 Rep. Barnhart Points out that the contracts would be entering into a relationship for a period of time.
- 312 Bell Highlights the energy conservation process and the need for the energy saving contracting organization to be prepared to take on the obligation and prove that they will be able to meet the terms of the contract.
- 321 Rep. Barnhart Asks if there are more restrictions in the bill that limit the definition of an energy savings performance contract.
- 341 Kafoury Answers yes.
- 348 Rep. Barnhart Asks if the bill makes the existing law more specific.
- 376 Bell Explains that there is a perceived risk about fulfilling the contracts.
- 400 Harvey Explains the benefit of the contracts and zero cost to taxpayers.
- 408 Rep. Barnhart Asks if the bill helps with legislative oversight by limiting what agencies are able to do regarding energy savings performance contracting.
- 430 Kafoury Explains that the bill is more of a guideline than a mandate.

**TAPE 47, B**

- 004 Houser Asks if another company would be comfortable with the requirements set in the bill, or if it reflects how Johnson Controls does business.
- 010 Bell Answers that the bill reflects how energy savings performance contracts are done.

015	Kafoury	Concurs that the bill reflects the way the contracts are done.
018	Chair Anderson	Asks if the state energy trust has been used to procure funds for the energy contracts.
020	Harvey	Answers that SB 1149 funds have been used.
026	Kafoury	Cites the testimony of Bill Kennemer ( <b>EXHIBIT C</b> ).
033	Rep. Jenson	Asks where the term “natural resource” is defined.
038	Kafoury	Cites the definition of “natural resources”.
046	Rep. Barnhart	Speaks in favor of the concept and states that it provides an outline for smaller districts.
061	Harvey	Explains that performance contractors have allowed the school district to centralize energy operations and save money. Anticipates a \$175,000 credit in the latest performance contract.
073	Chair Anderson	Notes the coordination with the development of energy efficient homes that are being developed and planned.
081	Larry Gray	Assistant Director, ODE. Testifies in support of HB 3328. Explains the importance of saving energy.
090	Rep. Lim	Asks if bonding is required from the state when the work is performed.
095	Gray	Answers that he is unsure.
103	Betty Merrill	Manager, Building and Technologies Section, ODE. Explains that contractor bonds are required when entering into the contract.
109	Chair Anderson	Asks if DOE works with Department of Administrative Services (DAS) on similar projects.
112	Gray	Answers that DOE works with DAS on similar projects for state agencies.

118	Rep. Lim	Asks how many companies in Oregon are qualified to receive contracts.
122	Merrill	Answers that there are six companies in Oregon that are energy savings performance contractors and notes that there is a list of contractors on the department's website.
126	Rep. Lim	Asks where the savings in the projects are coming from.
132	Merrill	Answers all of the fuel sources and electricity and natural gas, fuel oil or diesel and water savings.
137	Rep. Lim	Asks about the complexity of the contracts that are issued.
141	Merrill	Answers it is a three part contract, about an inch thick.
145	Rep. Lim	Asks if the requirements to meet the contract are cumbersome.
154	Merrill	Answers that the requirements depend on the contract. Explains that comprehensive language is desired in the contracts.
161	Chair Anderson	Asks if any of the contract standards are listed in administrative rules.
165	Merrill	Answers that in the 2003 legislative session there was legislation to facilitate performance contracting and some of the language is in HB 2214 in the current legislative session.
168	Chair Anderson	Asks if there is a need for HB 3328.
170	Merrill	Answers that that DAS and the Department of Justice need to examine the rules.
175	Patrick Green	Oregon AFL-CIO. Submits and summarizes prepared testimony in support of HB 3328 ( <b>EXHIBIT E</b> ).
215	Chair Anderson	Asks how broad the training programs are.
218	Green	Explains the apprenticeship programs addressed in HB 3328.



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Chair Anderson

Closes the public hearing on HB 3328. Adjourns the meeting at 2:28 p.m.

**EXHIBIT SUMMARY**

- A. **Introductions, LC 3612, staff, 2 pp**
- B. **HB 3328, -1 amendments, staff, 15 pp**
- C. **HB 3328, prepared testimony, Bill Kennemer, 3 pp**
- D. **HB 3328, PowerPoint presentation, David Bell, 8 pp**
- E. **HB 3328, prepared testimony, Patrick Green, 1 p**