

# SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

April 26, 2005  
1:00 P.M.

Hearing Room B  
Tapes 66 – 67

**MEMBERS PRESENT:**     **Sen. Rick Metsger, Chair**  
                                  **Sen. Bruce Starr, Vice-Chair**  
                                  **Sen. Jason Atkinson**  
                                  **Sen. Ryan Deckert**  
                                  **Sen. Laurie Monnes Anderson**

**STAFF PRESENT:**       **Theresa Van Winkle, Committee Administrator**  
                                  **James Goulding, Committee Assistant**

**MEASURES/ISSUES HEARD :**

**HB 2439 – Public Hearing and Work Session**  
**HB 2578A – Public Hearing and Work Session**  
**HB 2637A – Public Hearing and Work Session**  
**HB 2719A – Public Hearing and Work Session**  
**HB 2604A – Public Hearing**  
**SB 671 – Public Hearing**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 66, A</b>		
003	Chair Metsger	Calls the committee to order at 1:10 p.m. Opens a public hearing on HB 2439.
<b><u>HB 2439 – PUBLIC HEARING</u></b>		
010	Rep. Greg Macpherson	House District 38. Testifies in support of HB 2439, explaining its provisions. Introduces Mr. Morrow and Mr. Hull.
034	Andrew Morrow	Business Law Section, Oregon State Bar. Submits written testimony in favor of HB 2439 ( <b>EXHIBIT A</b> ).
051	Chair Metsger	Summarizes his understanding of the measure.
056	Sen. Atkinson	Wonders why they need this measure.
060	Morrow	Points out there were inadvertent changes in previous legislation and this is to restore the original language.
073	Steven Hull	Attorney, Portland. Submits his written testimony in favor of the measure ( <b>EXHIBIT B</b> ).
075	Chair Metsger	Closes public hearing on HB 2439 and opens a work session on HB 2439
<b><u>HB 2439 – WORK SESSION</u></b>		
077	Sen. B. Starr	<b>MOTION: Moves HB 2439 to the floor with a DO PASS recommendation.</b>
078		<b>VOTE: 4-0-1</b>
	Chair Metsger	<b>EXCUSED: 1 - Deckert</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. B. STARR will lead discussion on the floor.</b>

079	Chair Metsger	Closes work session on HB 2439. Opens a public hearing on HB 2578A.
<b><u>HB 2578A – PUBLIC HEARING</u></b>		
082	Chair Metsger	Declares a potential conflict of interest as his company works with credit unions.
084	Pamela Leavitt	Credit Union Association of Oregon (CUAO). Testifies in favor of HB 2578A. Defers to Mr. Scoggins.
092	Harold Scoggins	Attorney, Farleigh Witt. Presents written testimony in favor of HB 2578A ( <b>EXHIBIT C</b> ). Explains the provisions of the measure.
129	Chair Metsger	Close public hearing on HB 2578A. Opens a work session on HB 2578A.
<b><u>HB 2578A – WORK SESSION</u></b>		
134	Sen. B. Starr	<b>MOTION: Moves HB 2578A to the floor with a DO PASS recommendation.</b>
136		<b>VOTE: 4-0-1</b>
	Chair Metsger	<b>EXCUSED: 1 - Deckert</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. MONNES ANDERSON will lead discussion on the floor.</b>
138	Chair Metsger	Closes the work session on HB 2578A. Opens a public hearing on HB 2637A.
<b><u>HB 2637A – PUBLIC HEARING</u></b>		
141	John McCulley	Oregon Association of Mortgage Professionals. Presents written testimony in favor of HB 2637A ( <b>EXHIBIT D</b> ).
180	Chair Metsger	Closes the public hearing on HB 2637A. Opens a work session on HB 2637A.
<b><u>HB 2637A – WORK SESSION</u></b>		
191	Sen. B. Starr	<b>MOTION: Moves HB 2637A to the floor with a DO PASS recommendation.</b>
193		<b>VOTE: 4-0-1</b>
	Chair Metsger	<b>EXCUSED: 1 - Deckert</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. METSGER will lead discussion on the floor.</b>
195	Chair Metsger	Closes the work session on HB 2637A. Opens a public hearing on HB 2719A.
<b><u>HB 2719A – PUBLIC HEARING</u></b>		
202	Rep. Chip Shields	House District 43. Presents written testimony in favor of HB 2719A ( <b>EXHIBIT E</b> ).
229	Shawn Miller	Property Casualty Insurers Association of America (PCI). Voices additional support for the measure.
237	Chair Metsger	Closes the public hearing on HB 2719A. Opens a work session on HB 2719A.
<b><u>HB 2719A – WORK SESSION</u></b>		
240	Sen. B. Starr	<b>MOTION: Moves HB 2719A to the floor with a DO PASS recommendation.</b>
242		<b>VOTE: 4-0-1</b>
	Chair Metsger	<b>EXCUSED: 1 - Deckert</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. ATKINSON will lead discussion on the floor.</b>
247	Chair Metsger	Closes work session on HB 2719A. Opens a public hearing on HB 2604A.
<b><u>HB 2604A – PUBLIC HEARING</u></b>		
260	Jana Jarvis	Government Affairs Director, Oregon Association of Realtors.

275	Matt Farmer	Presents written testimony in favor of HB 2604A ( <b>EXHIBIT F</b> ). Associate General Counsel, Oregon Association of Realtors.
310	Farmer	Explains the provisions of the measure before the committee. Provides additional testimony on statutory duties of real estate licensees.
360	Farmer	Notes the desire to set a clear standard of conduct.
390	Farmer	Discusses consequences of violating standards to promote better conduct.
423	Cynthia Balzola	President, Oregon Association of Realtors. Testifies in favor of HB 2604A.
<b>TAPE 67, A</b>		
005	Balzola	Provides background on the previous realtors conference in deciding needed legislative action.
033	Brian DeMarco	Manager, Land Development and Policy Coordination, Oregon Real Estate Agency. Presents a packet of written testimony in opposition to HB 2604A ( <b>EXHIBIT G</b> ). Advocates the adoption of the -A4 amendments ( <b>EXHIBIT H</b> ).
061	Sen. B. Starr	Observes there was a public hearing in the other chamber. Asks if he was involved in that process.
064	DeMarco	Offers he was involved peripherally. States Ms. Osborne will provide additional details.
065	Sen. B. Starr	Wonders about his agency supporting the compromise reached in the previous work group.
076	DeMarco	Notes that everything occurred quickly in the other chamber.
080	Becky Osborne	Regulation Manager, Oregon Real Estate Agency. Discusses her involvement in the previous work group. Talks about objections voiced within the work group.
097	Sen. B. Starr	Asks if their testimony on HB 2604 in the other chamber was in support, neutral, or opposed to the measure.
103	Osborne	Replies their agency opposed the bill in the public hearing. Offers their objections were noted in the work group.
117	Sen. Deckert	Desires to know what their objections are.
121	Osborne	Testifies in opposition to the measure. Submits an e-mail correspondence from Phil Querin ( <b>EXHIBIT I</b> ). Apologizes for not having her written testimony, notes she will make sure that they receive it.
161	Osborne	Continues to testify in regards to their concerns with the measure.
195	Osborne	Opposes the change from a “negligence” standard to a “gross negligence” standard.
227	Christine Chute	Business Activities Section, Oregon Department of Justice. Submits written testimony relating their concerns with HB 2604A ( <b>EXHIBIT J</b> ).
265	Chute	Continues to discuss the litigation problems that will arise from the passage of the measure.
297	Chair Metsger	Asks what the current “negligence” standard is.
303	Chute	Offers the legal definition of “negligence”.
313	Sen. B. Starr	Questions the current statute standard for architects.
317	Chute	Replies that there is currently a “gross negligence” standard in statute for architects. States there are other related provisions that are similar to the “negligence” standard.
330	Sen. B. Starr	Wonders if the standard is similar for tax consultants.
333	Chute	Understands that it is similar, replies she will provide additional details.

340	Sen. Atkinson	Wonders where the head of their agency is.
350	Osborne	Notes why the head of the agency is not present.
370	Sen. Atkinson	Questions if the agency has recruited anyone to testify against the measure.
373	Osborne	Relays that she has stepped in to testify.
380	Sen. Atkinson	Reads from a transcript of the work group held in the House. Notes his concern that she did not object to the language at that time.
390	Osborne	Explains that she was talking about language omitted by legislative counsel.
407	Sen. Atkinson	Asks why she didn't object to the bill.
410	Osborne	Replies.
<b>TAPE 66, B</b>		
003	Osborne	Continues to explain that they were not aware of a number of the changes.
005	Sen. Atkinson	Asks when she first received the bill.
007	Osborne	Replies that they received it on February 21.
010	Sen. Atkinson	Comments on his frustration. Discusses the volume of legislation moving through the process and the importance of honoring agreements.
019	Sen. Monnes Anderson	Views this as a "consumer protection" measure. Discusses the need to streamline the language.
042	Chair Metsger	Comments on the previous discussions held on the bill.
051	Sen. Deckert	Considers how this language will be a problem for the consumer. Asks that he be able to meet with them at another time.
055	Osborne	Replies they would be happy to provide him with additional details.
059	Chair Metsger	Asks about the proposal of having a standard for "repeated negligence".
065	Chute	Comments on the difference of combining "gross negligence" with "repeated negligence".
073	Rep. Derrick Kitts	House District 30. States his name for the record.
075	Rep. Sal Esquivel	House District 6. States his name for the record.
078	Rep. Kitts	Testifies in regard to the work group held on HB 2604A. Notes the compromise reached in the work group.
097	Rep. Esquivel	Testifies on HB 2604A. Talks about the seven page agreement to protect consumers.
130	Rep. Esquivel	Notes the harsh "negligence" penalty currently imposed on realtors.
155	Rep. Esquivel	Details the difference between a "negligence" and a "gross negligence" standards. Offers there is a need for distinction between penalties.
160	Sen. Atkinson	Asks if an agreement was reached on the House side that has changed on the Senate side.
162	Rep. Esquivel	Agrees that is the case.
173	Arthur Kegler	Oregon Association of Realtors. Testifies in favor of HB 2604A.
200	Kegler	Observes the primary issue is "intent" in defining "negligence" and "gross negligence".

**The following material is submitted for the record without public testimony:**

Emily Cedarleaf	Executive Director, Multifamily Housing Council of Oregon. Submits written testimony for the record ( <b>EXHIBIT K</b> ).
Rick Harris	Oregon Association of Realtors. Submits written testimony for

the record (**EXHIBIT L**).

220 Tim Pfau AFSCME, Council 75. Submits written testimony for the record (**EXHIBIT M**).

Chair Metsger Notes the committee needs more time to weigh the issue before them. Closes public hearing on HB 2604A. Opens a public hearing on SB 671.

**SB 671 – PUBLIC HEARING**

232 John Stageberg Oregon Mutual Utility Development (OMUD). Testifies in favor of SB 671.

270 Stageberg Continues to explain the measure and the current situation with Portland General Electric (PGE).

300 Stageberg Observes this provides for customer ownership of PGE.

324 Chair Metsger Points out the issue of Oregon Public Utility Commission’s (PUC) oversight and what the PUC actually has power to oversee.

344 Ivan Gold Attorney, Perkins Coie, representing OMUD. Clarifies the PUC’s ability to regulate a public utility.

381 Sen. Deckert Wonders how the PUC could regulate PGE in this scenario.

407 Gold Replies that nothing would change from the current scenario. Clarifies PUC’s regulatory ability.

**TAPE 67, B**

005 Gold Continues explaining the PUC’s regulatory authority.

014 Sen. Deckert Relates his concern that the PUC only has the ability to pass on rate increases to the consumer.

020 Gold Replies, relating his experience in the industry.

037 Sen. Deckert Questions the tax status of the entity.

048 J.T. Pendergraft Certified Public Accountant, OMUD. Notes the Internal Revenue Service is evaluating the status. Replies that for tax purposes you can be a co-op without actually being a co-op. Talks about the requirements.

079 Sen. Deckert Notes the difficulty of this decision without clear research results.

091 Sen. B. Starr Considers if their company would proceed without passage of SB 671.

101 Stageberg Replies this provides the best financial offer for returning PGE to a publicly owned utility.

117 Sen. B. Starr Wonders about the financial impact of issuance of bonds on the ratepayer.

119 Stageberg Provides an example on the rate bond maturity and credit.

135 Sen. Monnes Requests greater clarity on potential tariffs.

Anderson

145 Stageberg Explains that it would be the principal and interest on their debt payments.

179 Chair Metsger Observes the mixed signals he is receiving on this issue. Asks about additional components needed in this bill.

189 Rick Willis PUC. Affirms that he is correct. Details the number of areas where current laws are not written to address a mutual. Notes amendments would be needed to allow regulation of this company.

201 Jeff Bissonnette Citizens Utility Board (CUB). Offers his views on the mutual utilities concept. Offers a number of concerns.

230 Bissonnette Voices his concerns with this proposal as it is not “self-contained” like the proposal in SB 1008.

240	Chair Metsger	Asks for clarification.
245	Bissonnette	Replies in regard to the language in the measure he is referring to.
263	Chair Metsger	Offers it would be helpful to have additional clarity on this issue.
271	Sen. Monnes Anderson	Considers the issue of liability if something goes wrong.
277	Willis	States that it is likely to be passed on to the customers.
282	Sen. Monnes Anderson	Asks about the scenario of PGE going bankrupt.
288	Willis	Describes that as a mutual utility it would be very difficult for PGE to go bankrupt.
295	Sen. Monnes Anderson	States that PGE customers might see their rates go up in the event of financial difficulty.
297	Willis	Replies that is correct.
304	Chair Metsger	Asks the proponents to work on language for a governance structure for the PUC. Closes the public hearing on SB 671. Adjourns the committee at 3:00 PM.

## **EXHIBIT SUMMARY**

- A. **HB 2439, Written testimony, Andrew Morrow, 2 pp**
- B. **HB 2439, Written testimony, Steven Hull, 2 pp**
- C. **HB 2578A, Written testimony, Harold Scoggins, 3 pp**
- D. **HB 2637A, Written testimony, John McCulley, 1 p**
- E. **HB 2719A, Written testimony, Rep. Chip Shields, 1 p**
- F. **HB 2604A, Written testimony, Jana Jarvis, 4 pp**
- G. **HB 2604A, Written testimony packet, Brian DeMarco, 16 pp**
- H. **HB 2604A, -A4 amendment, staff, 1 p**
- I. **HB 2604A, E-mail Correspondence, Becky Osborne, 2 pp**
- J. **HB 2604A, Written testimony, Christine Chute, 1 p**
- K. **HB 2604A, Written testimony, Emily Cedarleaf, 5 pp**
- L. **HB 2604A, Written testimony, Rick Harris, 3 pp**
- M. **HB 2604A, Written testimony, Tim Pfau, 12 pp**