

# SENATE COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

May 26, 2005  
1:00 P.M.

Hearing Room B  
Tapes 74 – 75

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

**MEMBER EXCUSED:** Sen. Ryan Deckert

**GUEST MEMBER:** Sen. Vicki Walker

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

**MEASURES/ISSUES HEARD:**

HB 2604A – Work Session  
SB 955 – Work Session  
HB 2071 – Public Hearing and Work Session  
HB 2200 – Public Hearing and Work Session  
HB 2579 – Public Hearing and Work Session  
HB 2069 – Public Hearing and Work Session  
SB 408 – Work Session

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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 74, A</b>		
003	Chair Metsger	Calls the meeting to order at 1:08 p.m. Opens a work session on HB 2604A.
<b>HB 2604A – WORK SESSION</b>		
012	Chair Metsger	Mentions the -A6 amendments ( <b>EXHIBIT A</b> ).
021	Dave Heynderickx	Acting Legislative Counsel. Explains the provisions of the measure. Talks about the differences in standards between “negligence” and “gross negligence”.
051	Heynderickx	Explains the changes made in the –A6 amendments.
078	Scott Taylor	Oregon Real Estate Commissioner. Concurs with Mr. Heynderickx’s analysis of the –A6 amendments and states support for them.
085	Jana Jarvis	Oregon Association of Realtors. States support for the –A6 amendments.
<b>090</b>	<b>Sen. B. Starr</b>	<b>MOTION: Moves to ADOPT HB 2604A-A6 amendments dated 5/18/05.</b> <b>VOTE: 4-0-1</b> <b>EXCUSED: 1 - Deckert</b>
<b>092</b>	<b>Chair Metsger</b> <b>Sen. B. Starr</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>MOTION: Moves HB 2604A to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 4-0-1</b>

	<b>Chair Metsger</b>	<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>
096	Chair Metsger	Closes the work session on HB 2604A. Opens a work session on SB 955.
<b><u>SB 955 – WORK SESSION</u></b>		
091	Theresa Van Winkle	Committee Administrator. Notes the -5 amendment ( <b>EXHIBIT B</b> ) to SB 955.
098	Brian DeMarco	Oregon Real Estate Agency. Notes the original objections to the measure. Talks about the compromise reached in the -5 amendments.
110	Barry Pack	Committee for the Protection of Condominium Owners and Builders. Explains the changes made by the -5 amendments.
125	Sen. B. Starr	Asks who was represented in the negotiations that resulted in the amendments.
129	Pack	Lists the parties involved in the compromise discussion.
135	<b>Sen. B. Starr</b>	<b>MOTION: Moves to ADOPT SB 955-5 amendments dated 5/24/05.</b>
		<b>VOTE: 4-0-1</b>
		<b>EXCUSED: 1 - Deckert</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
140	<b>Chair Metsger</b> <b>Sen. B. Starr</b>	<b>MOTION: Moves SB 955 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0-1</b>
		<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>
147	Chair Metsger	Closes the work session on SB 955. Opens a public hearing on HB 2071.
<b><u>HB 2071 – PUBLIC HEARING</u></b>		
150	Teresa Van Winkle	Committee Administrator. Introduces HB 2071.
155	Bill Boyd	Dispute Resolution Manager, Construction Contractors Board. Submits and summarizes prepared testimony in support of HB 2071 ( <b>EXHIBIT C</b> ).
180	Chair Metsger	Closes the public hearing and opens a work session on HB 2071.
<b><u>HB 2071 – WORK SESSION</u></b>		
180	<b>Sen. B. Starr</b>	<b>MOTION: Moves HB 2071 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-1</b>
		<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>
190	Chair Metsger	Closes the work session on HB 2071. Opens a public hearing on HB 2200.
<b><u>HB 2200 – PUBLIC HEARING</u></b>		
200	Bill Boyd	Dispute Resolution Manager, Construction Contractors Board (CCB). Submits and summarizes prepared testimony in support of HB 2071 ( <b>EXHIBIT D</b> ).
255	Sen. B. Starr	Asks what administrative issues led to the move away from four-year licenses.
261	Kristie Patton	Licensing Section Manager, CCB. Explains the licensing process and the associated administrative challenges.

273	Sen. B. Starr	Asks how many contractors are administered by CCB.
277	Patton	Answers approximately 40,000.
279	Sen. B. Starr	Wonders how many contractors per month change their business status.
280	Patton	Answers that it is approximately 60 per month.
287	Sen. B. Starr	Remarks that the number of contractors affected is small and wonders if it is necessary to change the law to accommodate them.
303	Boyd	Explains the hope that the bill will make business operations move more smoothly. Notes that expenses would be reduced for the CCB.
316	Sen. B. Starr	Asks what licensing options contractors have.
319	Patton	Answers that there is a mandatory two-year license and an optional four-year license.
325	Chair Metsger	Closes the public hearing and opens a work session on HB 2200.
<b><u>HB 2200 – WORK SESSION</u></b>		
328	Sen. B. Starr	<b>MOTION: Moves HB 2200 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-1</b>
		<b>EXCUSED: 1 - Deckert</b>
	Chair Metsger	<b>Hearing no objection, declares the motion CARRIED. SEN. METSGER will lead discussion on the floor.</b>
335	Chair Metsger	Closes the work session on HB 2200. Opens a public hearing on HB 2579.
<b><u>HB 2579 – PUBLIC HEARING</u></b>		
340	Don Miner	Executive Director, Oregon Manufactured Housing Association. Submits and summarizes prepared testimony in favor of HB 2579 ( <b>EXHIBIT E</b> ).
360	Joan Fraser	Building Codes Division, Department of Consumer and Business Services. Testifies in support of HB 2579. Notes the similar legislation HB 2389.
375	Chair Metsger	Closes the public hearing and opens a work session on HB 2579.
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<b><u>HB 2579 – WORK SESSION</u></b>		
380	Sen. B. Starr	<b>MOTION: Moves HB 2579 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-1</b>
		<b>EXCUSED: 1 - Deckert</b>
	Chair Metsger	<b>Hearing no objection, declares the motion CARRIED. SEN. B. STARR will lead discussion on the floor.</b>
390	Chair Metsger	Closes the work session on HB 2579. Opens a public hearing on HB 2069.
<b><u>HB 2069 – PUBLIC HEARING</u></b>		
410	Michael Snyder	Administrator, Landscape Contractors Board (LCB). Testifies in support of HB 2069.
<b>TAPE 75, A</b>		
005	Snyder	Submits a packet of testimony and information ( <b>EXHIBIT F</b> ).
045	Bill Cross	Oregon Landscape Contractors Association. Submits written testimony in favor of HB 2069 ( <b>EXHIBIT G</b> ).
085	Chair Metsger	Notes the difference between the proposed -A2 amendments ( <b>EXHIBIT H</b> ), -A3 amendments ( <b>EXHIBIT I</b> ), and -A4 amendments ( <b>EXHIBIT J</b> ).
085	Sen. Monnes	Asks about fees associated with continuing education for

090	Anderson Snyder	landscape contractors. Replies that no fees for continuing education would be charged by the LCB because it is part of the licensing fees.
096	Sen. Monnes Anderson	Asks if continuing education issues could be reported online.
097	Snyder	Answers yes.
098	Sen. Atkinson	Asks about the composition of the LCB.
101	Snyder	States that the board is made up of five industry-related members and two public members.
103	Sen. Atkinson	Asks for a further clarification of the composition of the LCB industry-related members.
106	Snyder	Offers further clarification of the industry-related members of the LCB.
110	Sen. Atkinson	Expresses skepticism about education credits. Feels that industry boards can present barriers-to-entry to an industry. Cites a similar issue faced by the used car industry in the past.
125	Snyder	Explains that the initial landscape contractor examination is the first standard of competency and the continuing education would enhance the knowledge of landscape contractors. Expresses the desire to have the examination certified by the national organization of accreditation certification.
154	Sen. B. Starr	Asks for a comparison of the state requirements in HB 2069 to the requirements for LCB licenses.
163	Snyder	Highlights the differences between the two.
193	Brian McDermott	Legislative Assistant, Office of Senator Charles Starr. Explains the -A2 amendments, -A3 amendments, and -A4 amendments. Presents the written testimony of Rep. Kim Thatcher ( <b>EXHIBIT K</b> ) and Rep. Linda Flores ( <b>EXHIBIT L</b> ) regarding HB 2069.
265	Wes Butler	Silverton Licensed Landscaper. Testifies in regard to the importance to the amendments of the measure. Observes the heavy regulations on the landscape contracting industry in Oregon.
299	Mike Schrock	Business Contractor. Expresses concerns over additional regulations regarding continuing education and standards of professional conduct.
330	Schrock	Elaborates on the subjective nature of the landscaping industry.
369	Chair Metsger	Asks Mr. Cross about moving forward without sections 2 and 3 of the bill.
380	Cross	Asks for additional time to work out a compromise on the continuing education portion of the bill.
410	Chair Metsger	Explains that the bill can be passed with the -A4 amendments or held over until the next meeting to work out a compromise.
<b>TAPE 74, B</b>		
013	Sen. Monnes Anderson	Addresses the importance of the professional conduct portion of the bill.
023	Sen. B. Starr	Offers there are elements of the bill that are very positive that should be passed.
035	Snyder	States support for the bill.
<b>The following material is submitted for the record without public testimony:</b>		
	Patrick Griffiths	Water Resources Coordinator, City of Bend. Submits written testimony and information in support of HB 2069 ( <b>EXHIBIT P</b> ).
040	Chair Metsger	Notes the concerns expressed by Mr. Cross. Closes the public hearing and opens a work session on HB 2069.

042	Sen. B. Starr	<b>MOTION: Moves to ADOPT HB 2069-A4 amendments dated 5/25/05.</b>
045	Sen. Monnes Anderson	Argues that the consumer protection provisions should remain in the bill. <b>VOTE: 3-1-1</b> <b>AYE: 3 - Atkinson, Starr B., Metsger</b> <b>NAY: 1 - Monnes Anderson</b> <b>EXCUSED: 1 - Deckert</b> <b>The motion CARRIES.</b>
055	Chair Metsger Sen. B. Starr	<b>MOTION: Moves HB 2069 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 4-0-1</b> <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>
060	Chair Metsger	Closes the work session on HB 2069. Opens a work session on SB 408.
<b><u>SB 408 – WORK SESSION</u></b>		
065	Chair Metsger	Introduces SB 408.
075	Dexter Johnson	Office of Legislative Counsel. Explains the –A7 amendments <b>(EXHIBIT M)</b> .
100	Johnson	Explains the provisions for rate filing of a utility.
117	Chair Metsger	Asks for a clarification of the tax reporting provisions.
119	Johnson	Offers clarification of tax reporting. Continues his description of the amendments.
150	Johnson	Discusses deferred taxes in relation to depreciation.
175	Johnson	Details section 5 of the amendments.
186	Sen. Vicki Walker	Senate District 7. Asks if there is precedent for the automatic adjustment clause.
190	Johnson	Answers that there is a precedent and clarifies the automatic adjustment clause.
199	Mark Nelson	Industrial Customer of Northwest Utilities. Testifies in support of SB 408 and the –A7 amendments.
237	Jeff Bissonette	Citizens Utility Board (CUB). Testifies in support of SB 408.
254	Sen. B. Starr	Asks how the measure will affect rate stability.
274	Bissonette	Observes the importance of rate stability and rate adjustments. Notes that the bill includes provisions that allow tax issues to be examined.
301	Nelson	Concurs with Mr. Bissonette’s comments. Talks about rate changes over time.
325	Dan Meek	Attorney, Utility Reform Project. Testifies in support of SB 408. Describes problems with the bill related to the charges to ratepayers and the elimination of tax practices. States support for the –A7 amendments.
360	Meek	Proposes that deadlines for PUC review of rates and operations be included in the measure.
390	Meek	Objects to the limitation of the definition of “tax” in the measure. Argues that the definition should be further refined.
412	Pamela Lesh	Vice President for Regulatory Affairs, Portland General Electric (PGE). Notes she came prepared to address the –A6 amendments <b>(EXHIBIT N)</b> . Expresses uncertainty about the –A7 amendments and the one-way adjustment clause.

005	Lesh	Admits some concerns over the –A7 amendments. Submits and summarizes Tax True-up examples <b>(EXHIBIT O)</b>
033	Sen. Monnes Anderson	Asks for a clarification of the figures in Ms. Lesh’s examples.
040	Lesh	Explains Oregon’s Minimum Corporate Tax and offers a clarification of the figures. Continues describing the scenario in which PGE would receive more revenue than anticipated.
080	Lesh	Provides additional rate-setting scenarios.
120	Scott Bolton	PacificCorp. Testifies that SB 408 will hurt ratepayers and utilities. Explains regulations and taxes.
136	Chair Metsger	Clarifies attributable taxes related to utilities and affiliated groups.
143	Bolton	Asks for a clarification of the changes in the amendments.
149	Chair Metsger	Clarifies the changes in the –A7 amendments.
154	Lesh	Asks if losses would be impacted as well.
158	Chair Metsger	Answers that only utilities would be affected.
163	Bolton	Argues that the tax responsibility provisions in the measure are unclear.
168	Chair Metsger	Offers further clarification of the provision.
170	Gary Bauer	NW Natural. Describes the rate-setting process and tax liability.
200	Bauer	Discusses the shifts in tax liabilities and costs. Notes an issue of language related to deferred taxes paid and charges to ratepayers.
230	Chair Metsger	Offers clarification of the bill language.
240	Sen. B. Starr	Asks about the underlying issue of fairness regarding utilities’ ability to add taxes into their rates even if they don’t pay taxes.
249	Lesh	Explains the setting of utility rates and taxes.
280	Melinda Davison	Industrial Customers of Northwest Utilities. Notes that the examples Ms. Lesh provided are not considering the “Enron impact” related to Enron not paying the appropriate taxes.
314	Sen. Monnes Anderson	Asks if the amount of taxes would be so significant as to keep businesses from operating in Oregon.
320	Davison	Replies that SB 408 will not create a business disincentive, but will resolve the tax issues.
336	Chair Metsger	States that Pete Shepherd was involved in the discussions on the issue and asks if the Attorney General has taken a position on the issue.
345	Pete Shepherd	Deputy Attorney General. States that Attorney General Hardy Myers would like the law to connect the actual taxes received by governments to the amounts that utilities are recovering as that element of their cost. Notes the constitutional limitations of the legislature in addressing the issue.
378	Julie Brandis	Associated Oregon Industries (AOI). Notes AOI’s previous neutral position on the measure. Concurs with Sen. Starr’s observation on fairness on tax collection and payments.
415	Chair Metsger	Closes the work session on SB 408. Adjourns the meeting at 3:02 p.m.

## **EXHIBIT SUMMARY**

- A. **HB 2604A, -A4 amendments, staff, 1 p**
- B. **SB 955, -5 amendments, staff, 14 pp**
- C. **HB 2071, written testimony, Bill Boyd, 6 pp**

- D. **HB 2200, written testimony, Bill Boyd, 35 pp**
- E. **HB 2579, written testimony, Don Miner, 1 p**
- F. **HB 2069, written testimony and information, Michael Snyder, 31 pp**
- G. **HB 2069, written testimony, Bill Cross, 2 pp**
- H. **HB 2069, -A2 amendments, staff, 1 p**
- I. **HB 2069, -A3 amendments, staff, 1 p**
- J. **HB 2069, -A4 amendments, staff, 1 p**
- K. **HB 2069, written testimony, Rep. Kim Thatcher, 1 p**
- L. **HB 2069, written testimony, Rep. Linda Flores, 1 p**
- M. **SB 408, -A7 amendments, staff, 7 pp**
- N. **SB 408, -A6 amendments, staff, 4 pp**
- O. **SB 408, Tax True-up Examples, Pamela Lesh, 4 pp**
- P. **HB 2069, written testimony and information, Patrick Griffiths, 7 pp**