

## SENATE COMMITTEE ON BUSINESS AND LABOR

March 24, 2003  
1:00 PM

Hearing Room C  
Tapes 41-43

**MEMBERS PRESENT:**     **Sen. David Nelson, Chair**  
                                  **Sen. Vicki Walker, Vice-Chair**  
                                  **Sen. Rick Metsger**

**MEMBER EXCUSED:**     **Sen. Roger Beyer**

**STAFF PRESENT:**       **Dennis Dotson, Committee Administrator**  
                                  **Romy Dye, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 43 – Work Session**  
                                  **SB 63 – Work Session**  
                                  **SB 343 – Public Hearing**  
                                  **SB 831 – Public Hearing**  
                                  **SB 515 – Public Hearing**  
                                  **SB 557 – Public Hearing**  
                                  **SB 562 – 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 41, A</b>		
005	Chair Nelson	Calls the committee to order at 1:03 PM. Opens a work session on SB 43.
<b><u>SB 43 – WORK SESSION</u></b>		
007	Dennis Dotson	Committee Administrator. Provides overview of SB 43 with -1 and -4 amendments.
018	Sen. Walker	Asks about subsequent referral to Judiciary.
019	Chair Nelson	Responds asking President to suspend and pass it.
<b>020</b>	<b>Chair Nelson</b>	<b>MOTION: Moves to ADOPT SB 43-1 amendments.</b> <b>(EXHIBIT F)</b>
<b>021</b>		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Beyer</b>
	<b>Chair Nelson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>022</b>	<b>Chair Nelson</b>	<b>MOTION: Moves to ADOPT SB 43-4 amendments.</b>
<b>023</b>		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Beyer</b>
	<b>Chair Nelson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>025</b>	<b>Chair Nelson</b>	<b>MOTION: Moves SB 43 to the floor with a DO PASS AS AMENDED recommendation and SUBSEQUENT REFERRAL to Judiciary be rescinded.</b>
<b>030</b>		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Beyer</b>
	<b>Chair Nelson</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. NELSON will lead discussion on the floor.</b>
039	Chair Nelson	Closes the work session on SB 43 and opens a work session on

## SB 63.

### **SB 63 – WORK SESSION**

047	Dotson	Provides overview of SB 63.
052	Sen. Walker	Comments fiscal indicates Workers' Compensation Division would absorb unforeseen costs within budgeted resources.
055	Sen. Metsger	Asks whether referring to absorbing \$221,000.
057	Sen. Walker	Responds that is what it says.
060	Sen. Nelson	Asks if there are problems with that.
061	Sen. Metsger	Concerned if asked to send to Ways and Means with fiscal.
068	Maureen Boch	Chair, Workers' Compensation Board. Elaborates on increased work load. Explains reason for fiscal.
089	Chair Nelson	Asks how absorbing \$221,000 within the agency.
085	Boch	Responds there are current vacancies that will be filled and depending on timing of filling them the limitation may be used.
090	Chair Nelson	Asks if budget presented.
095	Boch	Responds yes it has through the sub-committee.
097	Sen. Metsger	Feels satisfied.
099	<b>Sen. Walker</b>	<b>MOTION: Moves to ADOPT SB 63-1 amendments dated 03/19/03.</b>
102		<b>VOTE: 3-0 (EXHIBIT G)</b>
	<b>Chair Nelson</b>	<b>EXCUSED: 1 - Sen. Beyer</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
104	<b>Sen. Walker</b>	<b>MOTION: Moves SB 63 to the floor with a DO PASS AS AMENDED recommendation.</b>
106		<b>VOTE: 3-0</b>
	<b>Chair Nelson</b>	<b>EXCUSED: 1 - Sen. Beyer</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WALKER will lead discussion on the floor.</b>
110	Chair Nelson	Closes the work session on SB 63 and opens a public hearing on SB 343.

### **SB 343 – PUBLIC HEARING**

115	Dotson	Provides overview of SB 343 with -1 amendments.
120	Ron Murray	United Association of Plumbers and Steamfitters. Explains -1 and upcoming -2 amendments.
149	Chair Nelson	Asks for clarification of -1 amendments.
151	Murray	Responds -1 amendments crossed line between charging individual and charging jurisdiction and they need separation.
154	Chair Nelson	Asks whether proposed -2 amendments go to the fees.
155	Murray	Responds that is correct. States fee structure will remain the same for the purveyor.
159	Chair Nelson	Asks what a purveyor is.
162	Murray	Provides definition of purveyor.
166	Duane Karstens	Clackamas River Water. Supports amendments of SB 343. Concerned no funding mechanism without amendments.
174	Chair Nelson	Asks if referring to -1 and -2 combined.
176	Karstens	Responds that is correct.
185	Chair Nelson	Asks whether fee schedule is okay.
190	Karstens	Feels it is fine.
196	Dave McDonnell	Portland Water Bureau. Supports amendments to SB 343.
205	Chair Nelson	Closes the public hearing on SB 343 and opens a public hearing on SB 831.

### **SB 831 – PUBLIC HEARING**

215	Dotson	Provides overview of SB 831.
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220	Vicki Walker	Oregon State Senator. Provides introduction in support of SB 831.
230	Charlcie Kaylor	Building Department, LLC. Testifies in favor of SB 831. Submits written testimony ( <b>EXHIBIT A</b> ).
299	Chair Nelson	Asks for explanation of Tort Claims Act.
303	Kaylor	Responds it is a limitation.
306	Chair Nelson	Clarifies reason for that is because they work for the city as independents.
314	Kaylor	States it does not preclude from being insured or sued.
319	Ron Murray	United Association of Plumbers and Steamfitters. Testifies in opposition of SB 831. Expresses concerns with SB 831: <ul style="list-style-type: none"> <li>• Discussion of privatizing of inspections and qualifications required of private inspectors</li> <li>• Tort liability issue</li> <li>• Making sure consistent inspections and cost compatible with local or state jurisdictions</li> </ul>
363	Sen. Walker	Submits written testimony ( <b>EXHIBIT B</b> ). Expresses concern with point number 4 on written objection sheet.
374	Murray	Responds do not object to private inspections.
403	Sen. Walker	Expresses concern with point number 5 on written objection sheet.
416	Kaylor	Responds are fully insured and contractual agreements with the cities make a clear line of responsibility.
<b>TAPE 42, A</b>		
005	Kaylor	Elaborates on discussion. States SB 831 does not concern liability or insurability but instead makes agents of the city. Discusses consistency and quality.
036	Sen. Metsger	Asks for clarification that prior to passage of SB 587 inspectors were able to do all the things SB 831 would restore.
039	Kaylor	Responds that is correct.
041	Sen. Metsger	Asks whether problems prior to 1999 when SB 587 passed with jurisdictions hiring unqualified people.
046	Murray	Responds jurisdictions have a policy. States willing to have SB 831 amended.
055	Sen. Walker	Agrees to an amendment.
059	Chair Nelson	Closes the public hearing on SB 831 and opens a public hearing on SB 515.
<b><u>SB 515 – PUBLIC HEARING</u></b>		
071	Dotson	Provides an overview of SB 515.
077	Jana Jarvis	Oregon Association of Realtors. Provides summary of SB 515. Submits written material ( <b>EXHIBIT C</b> ).
086	Matt Farmer	Associate General Counsel, Oregon Association of Realtors. Testifies in favor of SB 515. Provides history of sellers disclosure disclaimer. Provides description of SB 515.
190	Steve Lucas	Member, Oregon Association of Realtors. Testifies in support of SB 515. Discusses makeup of task force of Oregon Association of Realtors. States SB 515 is a disclosure only bill. Comments various issues are covered in SB 515 such as new laws, water intrusion and mold, and real estate licensees.
234	Jarvis	Asks for amendments on SB 515.
240	Chair Nelson	Asks if it is correct the new form proposing is yes, no, unknown

		or non-applicable.
241	Jarvis	Responds yes.
242	Chair Nelson	Asks is unknown shifts burden to the buyer.
244	Farmer	Responds there is no burden.
256	Chair Nelson	Asks if the buyer at that point could say they won't buy the house unless there is more information given.
260	Farmer	Responds that is a good point. Clarifies the purpose is the seller provides the information and if buyer is unsatisfied then the option is to find another property.
263	Sen. Metsger	Comments about fraud aspect of the seller. Asks what would happen if real estate agent sold own home.
279	Lucas	Responds when agent sells own home they act as a seller and are held to higher standards than an everyday seller.
288	Seb. Metsger	Asks whether the company would bear liability.
293	Lucas	Responds that is a legal question.
302	Farmer	Elaborates the situation is the same if agent sells own home or represents a client. States the firm is liable for own errors. .
312	Sen. Walker	Asks if the form has always been yes or no.
318	Farmer	Responds yes.
326	Sen. Walker	Asks whether findings of mold really are issue of defining whether it is toxic mold.
338	Farmer	Responds that is right; elaborates on mold issue.
353	Sen. Walker	Refers to page 14, line 24, section 2E on mold issue.
359	Farmer	Refers to page 15, line 36F on mold issue.
387	Sen. Walker	Asks how wide or narrow the mold disclaimer is.
395	Farmer	Comments the real issue is claims and moisture penetration.
414	Sen. Walker	Feels page 9, section J on health concern should be in the disclosure statement because it defines mold.
434	Farmer	Responds sellers property disclosure asks about sellers property in the title and illegal to ask about health of inhabitants because too broad category. Concerned a liability issue could occur.
<b>TAPE 41, B</b>		
014	Sen. Walker	Asks whether state and federal laws exist if do not disclose health issues when sell home.
017	Farmer	Responds there are state and federal laws that prohibit disclosure of information.
019	Sen. Walker	Asks if prohibits disclosure of health information.
020	Farmer	Responds yes.
021	Sen. Nelson	Asks about civil rights.
023	Farmer	Responds civil rights in case of AIDS state prohibitions in real estate against disclosures.
026	Chair Nelson	Asks for the site.
030	Farmer	Responds does not have site but others will.
034	Sen. Metsger	Refers to Senator Walker's item on being tested or treated for such things as asbestos or lead paint.
038	Jarvis	Responds item g is similarly worded to page 17, section J.
050	Farmer	Asks for substitution in the language for item F.
060	Sen. Walker	Claims Senator Metsger made a good point. Comments SB 515 is okay if adjustments can be made.
064	Chair Nelson	Asks what the practical effect is if the seller puts down unknown and asbestos shows up.
067	Farmer	Responds if someone said no but a case later showed up with asbestos the statement has to show it was false at the time it was made.

074	Chair Nelson	Asks whether SB 515 changes the five day period.
077	Farmer	Discusses disclaimer and disclosure. States currently if seller does not want to say anything about condition of property the buyer has until closing to revoke offer and if want to disclose what is known then the buyer has five days from delivery to decide.
123	Chair Nelson	Feels like it creates a burden of proof.
124	Farmer	Responds it does.
126	Lucas	Discusses home-owner and the disclaimer.
156	Harriett Heisey	Oregon resident. Bend, Oregon. Testifies in opposition of SB 515. Discusses section 7 of proposed changes to SB 515. Feels recorded and unrecorded documents be received when disclosure statement completed when looking at the property. Discusses questions that should be included in disclosure. Submits written material ( <b>EXHIBIT D</b> ).
340	Chair Nelson	Asks whether there is a specific definition of common interest development.
343	Heisey	Responds it is just called common interest developments.
350	Sen. Walker	Comments good points have been raised. Provides example on personal experience with buying a condominium. Suggests addressing concerns.
369	Farmer	Comments working with home-owner representatives to put additional provisions in seller's disclosure.

**TAPE 42, B**

005	Heisey	Adds it is not uncommon to know what to ask for when buying a home. Discusses purchasing a single family home.
027	Sen. Walker	Feels form cannot be overburdened and more discussion needed.
046	Lucas	Discusses the form and the need to obtain information for self instead of depending on someone else.
078	Sen. Metsger	Comments specificity gets burdensome. Asks for possible disclosure.
097	Chair Nelson	Close the public hearing on SB 515 and opens a public hearing on SB 557.

The following prepared testimony is submitted for the record without public testimony for SB 515:  
Walter Gowell

Submits written testimony (**EXHIBIT E**)

**SB 557 – PUBLIC HEARING**

101	Dotson	Provides overview of SB 557.
108	Sen. Walker	Explains need to address concerns by introducing SB 557 and SB 562.
115	John Johnson	Oregon resident. Testifies in support of SB 557. Provides personal example of non-thorough mold inspection involved when purchasing a home. States disclosure and inspector need to be discussed for new homeowners.
157	Melissa Johnson	Oregon resident. Adds importance of a legal requirement by the bank to have an inspection done.
159	Johnson	Elaborates on personal experience. States not disclosed properly and no inspector liable in experience.
181	Melissa Johnson	Feels very frustrated in a long process with no one able to help out and being told to leave everything at the house because mold is linked to SIDS. States having been to various attorneys.
219	Johnson	States disclosure needs to be changed.
226	Sen. Walker	Asks whether whole house inspection done when it was

		purchased.
231	Johnson	Responds no; elaborates on the unknown at point of purchase.
240	Sen. Walker	Comments significant risk and outcome taken that flooring in bathroom missed by the pest and dry rot inspections. Asks if payments still being made on the house.
249	Johnson	Responds six months ago told bank quit making payments. States out of money and homeless and costs money to hire attorney and deal with fixing the problem.
266	Melissa Johnson	Comments on liability issue. Says had to start over with items still at house and no money. Urges something needs to happen to protect others in future from going through same bad experience.
286	Sen. Walker	Comments it is unfortunate. Asks how many others aware of that have mold in homes and had similar difficulties.
296	Johnson	Responds there are quite a few.
323	Sen. Walker	Appreciates the input and time.
330	Melissa Johnson	Comments in hope that others can be helped.
334	Scott Taylor	Real Estate Agency. Testifies in a neutral position on both SB 557 and SB 562. States houses are more airtight so more problems and mold allergies only affect small percentage of human population. Supports legislation if includes symptoms and causes of problem for consumer. Concerned with viewing individual symptoms but okay with working with the property.
455	Sen. Walker	Agrees.
<b>TAPE 43, A</b>		
008	Chair Nelson	Asks whether there is federal legislation.
011	Taylor	Responds legislation has been introduced that would require active disclosure of mold problems. Adds person must know the problem before it can be disclosed and many times it is hidden.
014	Sen. Walker	Asks if there is a mold inspector.
017	Taylor	Responds no certification process for inspectors of mold in Oregon.
033	Chair Nelson	Closes the public hearing on SB 557 and opens a public hearing on SB 562.

**SB 562 – PUBLIC HEARING**

043	Shawn Miller	Oregon Rental Housing Association (ORHA). Testifies in opposition of SB 562. Addresses Section 1 of SB 562. Discusses amendments.
094	Sharon Fleming-Barrett	Legislative Director, Oregon Rental Housing Association. Testifies in opposition of SB 562. Says many mold issues have to do with tenant wrongdoings and most landlords and tenants do not know toxic mold issues exist. Feels law is too broad. Adds the coalition will work on solving problems as they have in the past. Concerned with having a list exist in the law that may leave something out and in turn diminish protection already in existence.
143	Anne Williams	Association of Oregon Community Development Corporations and St. Vincent De Paul. Support general principals on SB 562 to provide tenant security and ensure decent safe and affordable housing. Discusses two issues: <ul style="list-style-type: none"> <li>• Widely defined parameters leading to lack of definition and clarity</li> <li>• Difficulty to engage in preservation of affordable housing</li> </ul>

		through purchase of expiring used properties
199	Phil Donovan	Expresses need for definition and specific language. Housing Authority. Testifies in opposition of SB 562. Discusses growing liability concern. Concerned with broad nature of SB 562 which could increase costs or reduce ability to provide affordable housing to low-income.
244	Sen. Walker	States the need to work further on the issue. Comments on problem of one mold inspector for Oregon and not even certified.
262	Donovan	Agrees. Comments on wanting to provide best housing possible.
279	Sen. Walker	States will settle now for disclosure in realtor's form and keep working on it.
278	Chair Nelson	Closes the public hearing on SB 562 and adjourns the meeting at 3:18 PM.

## EXHIBIT SUMMARY

**A –SB 831, written testimony, Charlcie Kaylor, 1 p**

**B – SB 831, written testimony, Ron Murray, 1 p**

**C – SB 515, summary of proposed changes, Jana Jarvis, 2 pp**

**D – SB 515, written testimony and sheet of proposed changes, Harriett Heisey, 4 pp**

**E – SB 515, written testimony for the record, Walter Gowell, 6 pp**

**The following exhibits are listed out of order in the body of tape log:**

**F - SB 43, -1 amendments dated 03/04/03, staff, 2 pp**

**G – SB 63, -1 amendments dated 03/19/03, staff, 1 p**