

SENATE COMMITTEE ON BUSINESS AND LABOR

April 23, 2003
1:00 PM

Hearing Room C
Tapes 64-66

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

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

MEASURE/ISSUES HEARD: **HB 3063A – Public Hearing and Work Session**
 SB 603 – Work Session
 SB 604 – Work Session
 HB 2230A – Work Session
 HB 2389 – Work Session
 HB 2474 – Public Hearing and Work Session
 SB 40 – Work Session
 SB 534 – Work Session
 SB 563 – Work Session
 SB 831 – Work Session

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 64, A		
005	Chair Nelson	Calls the committee to order at 1:11 PM. Opens a public hearing on HB 3063.
<u>HB 3063 – PUBLIC HEARING</u>		
007	Dennis Dotson	Committee Administrator. Provides an overview of HB 3063A with -A2 amendments.
009	Jerry Krummel	Oregon State Representative, District 26. Testifies in favor of HB 3063A with -A2 amendments. Discusses the purpose of the bill with amendments that would create an emergency clause. Discusses part of the bill relating to structures with more than ten persons present at any time.
050	Dan Ruediger	Horse farm owner. Testifies in favor of HB 3063A. Discusses problems with current law: <ul style="list-style-type: none">● Lack of compliance or inability for some horse farms to comply with commercial standards regardless of size● County and state liability● Insurance coverage Provides personal example with own horse farm. States HB 3063A corrects problems. Expresses interest in enacting emergency clause as hundreds of farms in Oregon are currently acting illegally. Submits written testimony (EXHIBIT A).
120	Sen. Beyer	States animal husbandry is covered under current law.
127	Ruediger	Responds that is not how county interprets it. Comments because

135	Sen. Beyer	county sees what they define as the public entering the building it is under commercial standards not agricultural exempt. Feels county is interpreting law incorrectly because if animal husbandry it is clearly covered by current law.
137	Ruediger	Agrees.
138	Krummel	Clarifies the need for creating agricultural exemption for the county to have.
151	Sen. Beyer	Asks how big the Ruediger farm is.
154	Ruediger	Responds forty-eight acres.
156	Sen. Beyer	Believes the county's interpretation is ridiculous.
162	Chair Nelson	Closes the public hearing on HB 3063A and opens a work session on HB 3063A.

HB 3063A – WORK SESSION

167	Sen. Walker	MOTION: Moves to ADOPT HB 3063-A2 amendments dated 4/15/03.
171	Chair Nelson	VOTE: 4-0 Hearing no objection, declares the motion CARRIED.
175	Sen. Walker	MOTION: Moves HB 3063A to the floor with a DO PASS AS AMENDED recommendation.
178	Chair Nelson	VOTE: 4-0 Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
181	Chair Nelson	Closes the work session on HB 3063A and opens a work session on SB 603.

SB 603 – WORK SESSION

189	Dotson	Provides an overview of SB 603 with -1 amendments.
194	Darrell Fuller	Oregon Auto Dealer's Association. Testifies in favor of SB 603 with -1 amendments.
209	Chair Nelson	MOTION: Moves to ADOPT SB 603-2 amendments dated 4/18/03.
212	Chair Nelson	VOTE: 4-0 Hearing no objection, declares the motion CARRIED.
214	Chair Nelson	MOTION: Moves SB 603 to the floor with a DO PASS AS AMENDED recommendation.
216	Chair Nelson	VOTE: 4-0 Hearing no objection, declares the motion CARRIED. CHAIR NELSON will lead discussion on the floor.
218	Chair Nelson	Closes the work session on SB 603 and opens a work session on SB 604.

SB 604 – WORK SESSION

223	Dotson	Provides an overview of SB 604 with -1 and -3 amendments.
229	Darrell Fuller	States not aware of what the fiscal impact would be. Adds everyone agrees on -1 amendments. Comments -3 amendments came back late this morning and manufacturers ask that the bill be brought back first part of next week so lawyers in Detroit can initial them.
242	Sen. Walker	Asks if issue of concern was resolved.
249	Fuller	Responds yes; elaborates on agreeing on properly written version of the language.
252	Chair Nelson	Comments SB 604 will be rescheduled for the first part of next week. Closes the work session on SB 604 and opens a work session on HB 2230.

HB 2230A – WORK SESSION

265	Dotson	Provides an overview of HB 2230A with -A5 and -A6 amendments.
277	Cheryl Pellegrini	Oregon Department of Justice. Discusses difference between the -A5 and -A6 amendments. States the Department of Justice is okay with -A6 amendments.
301	Chair Nelson	Clarifies the issue is that some parties indicate a concern with expanding authority but this bill really gives what there was before.
302	Pellegrini	Responds correct.
303	Chair Nelson	Clarifies authority is not expanded in any way.
305	Pellegrini	Responds that is the position the department has taken.
308	Paul Romain	MCI Telecommunications. Discusses amendments. Supports adopting -A6 amendments.
339	Chair Nelson	Asks for clarification on how affected under Unlawful Trade Practices Act where there is a clause that says telephone solicitation exemption and those companies regulated by Pacific Utility Commission (PUC).
345	Pellegrini	Responds this would be in the nature of notwithstanding that provision. Explains the definition.
361	Chair Nelson	Asks whether regulated refers to incumbent carrier versus competitive carrier.
366	Pellegrini	Responds it would be incumbent carrier because until now PUC has not had any jurisdiction over competitive carriers.
373	Chair Nelson	Asks if regulation included.
376	Pellegrini	Requests others to respond. Elaborates on what exemption involves.
410	Romain	Responds problem is law is not clear but that is how it has been operating and people are comfortable with it. Explains own interpretation of exemption. Comments it is not real clear and there is not time or interest in starting over so in favor of adopting the -6 amendments.
422	Clark Jackson	Manager Consumer Services, Pacific Utility Commission (PUC). Support -A6 amendments.
TAPE 65, A		
005	Chair Nelson	Asks whether any discussion on regulation issue.
006	Jackson	Responds large telephone companies are fully regulated by them.
008	Chair Nelson	Asks whether consider there could be considered an exemption.
009	Jackson	Responds bill is only looked at into the slamming not as broadening of authority.
013	Sen. Metsger	MOTION: Moves to ADOPT HB 2230-A6 amendments dated 4/22/03.
015		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
017	Sen. Metsger	MOTION: Moves HB 2230A to the floor with a DO PASS AS AMENDED recommendation and a SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.
019		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED. CHAIR NELSON will lead discussion on the floor.
020	Chair Nelson	Closes the work session on HB 2230A and opens a work session on HB 2389.

HB 2389 – WORK SESSION

030	Dotson	Provides an overview of HB 2389.
039	Scott Barrie	Oregon Building Industry Association. Discusses concerns from Legislative Counsel on amendments submitted to them. Comments prefer to move bill as is.
041	Chair Nelson	Asks if referring to moving the bill with no amendments.
043	Barrie	Responds correct.
046	Chair Nelson	Asks if going to just change statutory numbers.
049	Barrie	Responds four statutory numbers were going to be added and there was concern from Legislative Counsel.
053	Chair Nelson	Clarifies amendments are not needed and bill can be taken as is.
055	Sen. Metsger	MOTION: Moves HB 2389 to the floor with a DO PASS recommendation.
057	Chair Nelson	VOTE: 4-0 Hearing no objection, declares the motion CARRIED. SEN. METSGER will lead discussion on the floor.
057	Chair Nelson	Closes the work session on HB 2389 and opens a public hearing on HB 2474.

HB 2474 – PUBLIC HEARING

060	Dotson	Provides an overview of HB 2474 with -1 and -2 amendments.
067	David Stiteler	Chair, Employment Relations Board. Testifies in favor of HB 2472 with -1 amendments. Discusses appeals. Discusses -1 amendments with emergency clause included.
146	Chair Nelson	Asks about not in favor of -2 amendments that make it retroactive.
148	Stiteler	Responds Employment Relations Board has no position on the -2 amendments. States -2 amendments proposed by the person who missed the time deadline whose appeal led to this bill being introduced.
155	Janan Ellis	Oregon resident. Testifies in favor of HB 2474. Comments that own life has been impacted severely and wants to see the law changed so people have time to get adequate representation and get a fair hearing.
173	Katelyn Oldham	Judy Snyder, Attorney at Law. Represents Janan Ellis. Testifies in favor of HB 2474. Discusses need for -1 & -2 amendments with regards to Ms. Ellis's case and upcoming cases. Discusses whether large fiscal impact would be involved and told by Mr. Stiteler it would not. Submits written testimony (EXHIBIT B).
217	Stiteler	Comments only two appeals in that time frame dismissed because appeals were untimely not filed within ten day requirement.
234	Chair Nelson	Suggests more research because there could be a greater fiscal impact. .
237	Sen. Beyer	Asks if amendment offered in the House.
238	Oldham	Responds no.
239	Ellis	Responds when testified in House it was something interested in seeing happen. States they discussed with her how to begin the appeal and amendment process and encourage that she ask for the amendment in this committee.
241	Sen. Walker	Refers to Ms. Oldham's letter mentioning only a handful of individuals would be eligible to see a hearing once their right is "revived."
245	Stiteler	Responds that is accurate. Believes there is only one other appeal other than Ms. Ellis which could be revived if -2 amendments

259 Oldham were adopted.
 282 Stiteler Explains why such a small number of people are affected. Elaborates on average Employment Relations Board gets between twenty and thirty appeals under State Personnel Relations Law altogether. Comments case load is small altogether and smaller percentage is dismissed under procedural ground such as timeliness.

295 Sen. Walker Comments would be happy to move the bill. Believes there will not be much of a fiscal.

299 Chair Nelson Asks whether someone from Employment Department would know if there might be some kind of a fiscal impact.

306 Tamara Brickman Legislative Coordinator, Employment Department. Comments Employment Department does not have involvement with the bill but the Employment Relations Board might.

314 Chair Nelson Asks if discussed with Representative Butler his position on the amendment.

317 Oldham Responds yes they have discussed with Representative Butler his position on the amendment. Comments his initial concern about the -2 amendment was he did not want the bill to die in fiscal.

323 Chair Nelson (not audible)

336 Ellis Responds yes and he is in support of the -1 amendments as well.

338 Chair Nelson Asks if Representative Butler was originally contacted to talk to about this.

343 Ellis Responds yes.

346 Sen. Beyer Comments in the Staff Measure Summary it says that Representative Butler requested the -1 amendments and would have thought he would have requested both amendments.

349 Sen. Walker Comments regarding speaking with Ms. Ellis and Ms. Oldham in her office and authorizing the -2 amendments. States took the representation.

356 Chair Nelson Closes the public hearing on HB 2474 and opens a work session on HB 2474.

HB 2474 – WORK SESSION

364 Sen. Walker **MOTION: Moves to ADOPT HB 2474-1 amendments dated 4/22/03.**

368 **VOTE: 4-0**
 Chair Nelson **Hearing no objection, declares the motion CARRIED.**

373 Sen. Walker **MOTION: Moves to ADOPT HB 2474-2 amendments dated 4/21/03.**

377 Sen. Walker Comments there should not be a problem and it only impacts one to three people and so it is a smart thing to do.

380 **VOTE: 4-0**
 Chair Nelson **Hearing no objection, declares the motion CARRIED.**

385 Sen. Walker **MOTION: Moves HB 2474 to the floor with a DO PASS AS AMENDED recommendation.**

390 **VOTE: 4-0**
 Chair Nelson **Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.**

400 Chair Nelson Closes the work session on HB 2474 and opens a work session on SB 40.

SB 40 – WORK SESSION

403 Dotson Provides an overview of SB 40 with -1 amendments.

005	John Dranius	Tax Section, Oregon State Bar. Discusses -1 amendments to SB 40 acceptable to Employment Department and Oregon State Bar.
022	Tamara Brickman	Legislative Coordinator, Oregon Employment Department. Testifies in favor of SB 40 on behalf of the Director. States Employment Department is okay with -1 amendments to SB 40 but would like further discussion in interim fashion to ensure that all issues have been looked at with respect to consequences. Adds would be okay with implementation if the bill passes. Submits written testimony for Samuel Brooks (EXHIBIT C).
026	Don Schellenberg	Oregon Farm Bureau. Comments do not have a problem with policy aspect but concerned with technical problem on page 2, lines 24-26. Stresses need to file one form or the other. Expresses no opposition to the bill with that change.
045	Brickman	Comments intention was to mirror the language in the statute that provides what Mr. Schellenberg is concerned with and may have been a technical drafting error.
048	Sen. Walker	Asks about language in statute.
052	Dranius	Responds when analyzing current statute focus on two requirements instead of eight. Comments six of them are repetitious of the two major requirements. Discusses the two major requirements.
081	Jane Martin	Manager, Employment Department Tax Section. Comments in reference to Sen. Walker's question about language in statute.
090	Schellenberg	Disagrees. Refers to language in subsection 8, page 3, line 24 of amendments.
107	Chair Nelson	Comments this is an issue that can be worked out.
110	Sen. Walker	Asks who was involved in the work group.
112	Brickman	Discusses everyone involved in the work group. Believes committee staff has a list of individuals who participated.
122	Sen. Walker	States broad group of people were involved in the work group. Comments work group was well represented. Clarifies Employment Department is okay with amendments. Asks if okay with the bill if it is passed out with the language as it is.
135	Brickman	Responds that is what I said.
142	Sen. Walker	Comments that is exactly what was heard and wanted to make sure.
144	Bob Shiprack	Executive Secretary, Building Trades Counsel. Representing the Employment Advisory Counsel. Discusses why interim issue suggested. Expresses concern with -1 amendments.
173	Dranius	Feels would not like to make two more years available for this issue. Believes there was a broad based group in the work session. Feels this is a big improvement in Oregon law and should not wait any longer.
201	Roger Martin	Registered lobbyist. Feels Oregon is the toughest state on the west coast to set up law. Feel people could use opportunity to work because in bad shape in Oregon. States can wait two years but should not delay it because if it is put off it won't get done.
229	Sen. Walker	Asks if the reason there is not much litigation is due not being worth it getting into the fight with the Employment Department and people just pay fines and move on.
235	Dranius	Feels it is one of the most frustrated areas of practice. Adds it will take a lot of money to fight the issue. Provides example of

		client's experience.
289	Sen. Walker	Asks if the client got reimbursed for the attorney fees.
292	Dranius	Responds no because that is the cost of doing business.
294	Tim Nesbitt	President, American Federation of Labor - Congress of Industrial Organizations (AFL-CIO). Expresses opposition of SB 40 or the -1 amendments. States did not participate in work group due to not seeing how it could be done to accurately assess the impact of any changes in this section of the law. Comments open for participating in a longer process to accurately assess what changes are needed and assess impact in the work force. Expresses disagreement these standards would end controversy. Discusses the -1 amendments.
360	Ed Glad	Pacific Northwest Regional Counsel of Carpenters. States not in the work group. Discusses how the law came to be and what it is today. Feels good standards in existence but there are troubles with other parts of the economy.
410	Sen. Walker	Expresses frustration. Asks Mr. Nesbitt if he was lobbying in 1999 AFL-CIO.
417	Nesbitt	Responds in 1999 lobbying was done for the Service Employees International Union. .
422	Sen. Walker	Refers to a bill brought forth in 1999 to change the law. Comments in 1999 the labor organizations and Employment Department were opposed to changing the law yet nobody talked about a work group or interim study. Asks when everyone was aware there was a significant problem why hasn't anyone said before now there needs to be a work group and study in the interim.
TAPE 65, B		
019	Nesbitt	Responds he did not advocate a work group. Claims what was said is if one formed they would participate in good faith. Feels law does not need to be changed.
021	Dranius	Notes there are a few minor glitches in the bill when it came back from Legislative Counsel and it will be discussed with the House.
026	Sen. Beyer	MOTION: Moves to ADOPT SB 40-1 amendments dated 4/17/03.
030		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
035	Sen. Beyer	MOTION: Moves SB 40 to the floor with a DO PASS AS AMENDED recommendation.
037	Sen. Beyer	Comments Oregon has the worst economy in the nation with one of the highest unemployment rates in the nation. States the law needs to be fixed because it is not working. Supportive of the bill moving forward to get Oregonians back to work.
042	Sen. Walker	Comments not usually mad but everyone knew it has been an issue since 1999. Expresses frustration in hearing some wanting change and others wanting more interim study. States there is a place for independent contractors in Oregon's business community and there are problems everyone knows about and it is time to be fixed.
049		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. WALKER AND SEN. BEYER will lead discussion on

		the floor.
051	Chair Nelson	Closes the work session on SB 40 and opens a work session on SB 534.
<u>SB 534 – WORK SESSION</u>		
058	Dotson	Provides an overview of SB 534 with -1 amendments.
060	Mark Bigger	Senator George’s office. Discusses -1 amendments and purpose of the bill. Provides example.
078	Tom Olsen	Administrator, Child Care Division. Expresses approval SB 534 with -1 amendments.
082	Chair Nelson	Closes the work session on SB 534 and opens a work session on SB 563.
<u>SB 563 – WORK SESSION</u>		
088	Dotson	Provides an overview of SB 534 with -2 amendments.
094	Randy Elmer	Attorney and Oregon Trial Lawyers Association member. Expresses approval of SB 534 with -2 amendments with everyone agreeing with the matrix.
105	Chair Nelson	MOTION: Moves to ADOPT SB 563-2 amendments dated 4/9/03.
108	Sen. Walker	Clarifies matrix is not in the bill or amendments which is just an agreement to reach a matrix.
110	Elmer	Yes it was never intended for matrix to be part of legislation but something Liberty Northwest pushed for own satisfaction.
113	Shawn Miller	Liberty Northwest. Comments worked out agreements with matrix and support SB 563 with -2 amendments.
130		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
133	Chair Nelson	MOTION: Moves SB 563 to the floor with a DO PASS AS AMENDED recommendation.
135	Sen. Walker	Comments happy to finally see fairness for workers so they can get an attorney and the attorney can get paid and everyone is happy.
138		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
139	Chair Nelson	Closes the work session on SB 563 and reopens a work session on SB 534.
<u>SB 534 – WORK SESSION</u>		
141	Sen. Beyer	MOTION: Moves to ADOPT SB 534-1 amendments dated 4/17/03.
144		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
147	Sen. Beyer	MOTION: Moves SB 534 to the floor with a DO PASS AS AMENDED recommendation.
150		VOTE: 4-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
		SEN. GEORGE will lead discussion on the floor.
152	Chair Nelson	Closes the work session on SB 534 and opens a work session on SB 831.
<u>SB 831 – WORK SESSION</u>		
153	Dotson	Provides an overview of SB 831.
156	Vicki Walker	Oregon State Senator. Provides introduction of SB 831 and background of last meeting.
180	Charlcie Kaylor	Building Department, LLC. Discusses purpose of the bill.

199	Tim Nichol	International Brotherhood of Electrical Workers, Local 280. Expresses concerns with section 3. Comments on wanting assurance that something is not being created that will hurt the state.
236	Kaylor	Agrees. Explains the concerned section.
267	Ralph Groener	American Federation of State and County Municipal Employees (AFSCME). Comments if local governments will testify that tort insurance covers contracted inspectors for errors, omissions and liability then no problem. Asks if not then it is a policy decision to be made by the state and does the legislature want these inspectors responsible for fire life safety to be operating without this particular insurance. States if it is okay with local government and it is being covered under their policy then no problem.
314	Kaylor	Responds that contracts vary with each of the jurisdictions; elaborates.
321	Sen. Walker	Clarifies Ms. Kaylor's response.
324	Kaylor	Responds correct. Discusses issue involved.
349	Sen. Walker	Clarifies Ms. Kaylor's business has all of the licenses and qualifications and so they are not just people hired off the street given twenty minutes of training who are going out and doing the inspecting.
352	Kaylor	Responds yes. States they have electrical inspectors with at least nine years of experience before they can sit for the test to become an electrical inspector and cannot hire anyone less than that. Adds they have to be certified before Building Codes Divisions allows them to do inspections.
363	Nichol	Comments still worried about the bill.
380	Sen. Walker	Feels there is a misinterpretation and misunderstanding of the meaning. States need to figure it out and bring it back on Monday.
391	Groener	Comments his question is directed at local government and would like to know the answer to that before AFSCME decides what direction to take on the bill.
400	David Barenberg	Legislative Director, League of Oregon Cities. Responds there is more work that needs to be done in regards to negligence and contracting.
437	Mark Lander	Office of Government Relations, City of Portland. Responds does not know in reference to the previous question. Refers to page 1, line 20 of the bill. States neutral on the bill but need to work further on getting clarification.
TAPE 66, A		
015	Chair Nelson	Closes the work session on SB 831. Adjourns the committee meeting at 3:08 PM.

EXHIBIT SUMMARY

A – HB 3063A, written testimony, Dan & Gina Ruediger, 2 pp

B – HB 2474, written testimony, Katelyn Oldham, 2 pp

C – SB 40, written testimony submitted by Tamara Brickman for Samuel Brooks, 2 pp