

# SENATE COMMITTEE ON GENERAL GOVERNMENT

May 21, 2003  
3:00 P.M.

Hearing Room B  
Tapes 58-59

**MEMBERS PRESENT:** Sen. Tony Corcoran, Chair  
Sen. John Minnis, Vice-Chair  
Sen. Bruce Starr  
Sen. Vicki Walker

**STAFF PRESENT:** Mark Ellsworth, Committee Administrator  
Heather Gravelle, Committee Assistant

**MEASURE/ISSUES HEARD:** HB 2407 B – Public Hearing and Work Session  
HB 2237 A – Public Hearing and Work Session  
HB 3120 A – Public Hearing and Work Session  
HB 3422 A – Public Hearing and Work Session  
HB 3061 A – Possible Reconsideration

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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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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 58, A</b>		
005	Chair Corcoran	Calls the committee to order at 3:00 PM. Opens a public hearing on HB 2407 B.
<b><u>HB 2407 B – PUBLIC HEARING</u></b>		
010	Dave Hendricks	Explains the -10 amendments to HB 2407 B. States they are applicable to the legislative assembly. Clarifies members not affected. Mentions a grandfather clause. Discusses who and what the requirements are to obtain the benefits. Presents -10 amendments ( <b>EXHIBIT A</b> ).
050	Sen. Walker	Asks if the amendments apply to only those elected after 2003 after the act takes effect.
052	Hendricks	Responds it applies to terms of service on or after effected date of the act by reason of election or appointment. States it will not effect calculation of service performed before the next term of office begins.
055	Sen. Walker	States her own circumstance and asks whether old rate applies until this bill passes and then new rate will apply.
060	Hendricks	Responds when you commence a new term of office.
063	Sen. Walker	Asks if percentage is based upon salary.
065	Hendricks	Responds the only members who will see a difference are specific members who have public employment outside the legislature.
068	Chair Corcoran	Closes the public hearing on HB 2407 B and opens a work session on HB 2407 B.
<b><u>HB 2407 B – WORK SESSION</u></b>		
070	Sen. Minnis	<b>MOTION: Moves to ADOPT HB 2407 B –B10 amendments dated 5/20/03.</b>
073	Chair Corcoran	<b>VOTE: 4-0</b> <b>The motion CARRIES.</b>

075	Sen. Minnis	<b>MOTION: Moves HB 2407 B to the floor with a DO PASS AS AMENDED recommendation.</b>
077	Chair Corcoran	<b>VOTE: 4-0</b> <b>The motion CARRIES.</b> <b>CHAIR CORCORAN will lead discussion on the floor.</b>
080	Chair Corcoran	Closes the work session on HB 2407 B. Opens a public hearing on HB 2237 A.
<b><u>HB 2237 A – PUBLIC HEARING</u></b>		
100	Mark Ellsworth	Committee Administrator. Provides overview of HB 2237 A with -1 & -A4 amendments. Presents -1 amendments dated 3/11/03 and -A4 amendments dated 5/20/03 ( <b>EXHIBITS B, C</b> ).
130	Scott Tighe	Standards and Certification Division Director, Department of Public Safety. States Mr. Ellsworth has addressed his thoughts precisely supporting the -A4 amendments. Addresses three key points of interest: <ul style="list-style-type: none"> <li>• Keep photographs of public safety officers on file confidential</li> <li>• Asking for access for personnel records limited to investigations conducting</li> <li>• Clarify authority to continue investigation if beyond ninety days</li> </ul>
150	Mark Landauer	Submits written testimony ( <b>EXHIBIT D</b> ). Office of Government Relations. Testifies in support of HB 2237 A. Explains intent of the -A4 amendments. Submits written testimony ( <b>EXHIBIT E</b> ).
155	Chair Corcoran	Closes the public hearing on HB 2237A and opens a work session.
<b><u>HB 2237 A – WORK SESSION</u></b>		
175	Sen. Minnis	<b>MOTION: Moves to ADOPT HB 2237 A –A1 amendments dated 3/11/03 and –A4 amendments dated 5/20/03.</b>
	Chair Corcoran	<b>VOTE: 4-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
185	Chair Corcoran	Closes the work session on HB 2237 A. Opens a public hearing on HB 3120 A.
<b><u>HB 3120 A – PUBLIC HEARING</u></b>		
195	Mark Ellsworth	Committee Administrator. Provides overview of HB 3120 A. Presents -4 amendments ( <b>EXHIBITS F, G</b> ).
220	Tom Gallagher	Representing Schnitzer Industries. Testifies in support of HB 3120 A with amendments. Explains background and history of the bill. Claims this is a starting point for agency streamlining and rulemaking. States what statute they are going by and framework.
250	Gallagher	Explains the bill claiming all the little fixes done in the past has not helped. Expresses interest in beginning a systematic study of agency rules and streamline so there is a single permit process. States it will take a couple of years with 2005 session starting to reflect results. Discusses –A4 amendments.
295	Chair Corcoran	Asks if okay with the -3 amendments.
312	Gallagher	Responds they are fine.
315	Patrick Allen	Manager, Regulatory Streamlining. Provides the important highlights of what HB 3120 A will accomplish. Points to ORS 183 dealing with agencies considering impacts on businesses

with proposed rules. States most agencies do a good job assessing impacts while others are more challenged. Adds the advisory committee will help assess the effect of agencies enabling the task force to then make a recommendation of new processes.

340 Allen Explains the amendments. Claims the bill will increase the amount of time for added consideration.

370 Chair Corcoran Hopes when committee is up and running they will look at business aspects of streamlining and the relationship with local governments.

405 Bill Perry Director Government Relations, Oregon Restaurant Association. Testifies on the -A3 amendments of HB 3120 A. States the background and history and how the amendments were crafted. Comments rather than getting rid of the law they would like to alter it and address the legal aspects of the bill. States there are still certain safeguards in place.

**TAPE 59, A**

005 Chair Corcoran Asks for clarification on what issue we are trying to resolve with the bill.

008 Perry Explains and clarifies what the issue was and why they have crafted these amendments.

030 Sen. Walker Asks why the law was passed in the first instance. States law first passed in 1953 and claims there was no legislative history of why the law was enacted. Feels okay with the amendment because still maintaining the separation. Asks if agree you do not want someone who is serving in a volunteer capacity on a commission with eye on larger prize to be elevated to be a director or another salaried position.

050 Perry Agrees. Responds did not want to remove the statute all-together. Believes intent is to make sure the term is over for a year and if there are problems the Governor can get rid of them. Provides a hypothetical situation.

075 Sen. Walker Mentions a situation that arose in the 1999 session. Comments the term expired, he was still serving, and a legal dispute arose. Asks what if he would have been up for a salary position with laws existing today. Asks what happens if under the change if his appointment ran out and he was doing his job but not officially appointed.

080 Perry Responds if the law was intact and he served a year after the term was up. Claims you still have to get the job, but the amendments state one year after the term is over. Adds you serve until your appointment is confirmed which is why he existed on the Board when not approved by the Governor but could be fired at any time by the Governor.

090 Sen. Walker Appreciates the research. Comments it is important to know why the laws were enacted before we change them.

095 Chair Corcoran Closes public hearing on HB 3120A and opens a work session.

**HB 3120 A –WORK SESSION**

105 Sen. Minnis **MOTION: MOVES to ADOPT HB 3120 A -A3 amendments dated 5/5/03 and -A4 amendments dated 5/16/03.**

110 Chair Corcoran Closes the work session on HB 3120 A. Opens a public hearing on HB 3422 A.

**HB 3422 A – PUBLIC HEARING**

115 Mark Ellsworth Committee Administrator. Provides overview of HB 3422 A with

		amendments. Presents –A4 amendments dated 5/20/03 and –A5 amendments dated 5/21/03 ( <b>EXHIBITS H, I</b> ).
135	Chair Corcoran	Asks who the author of the amendments are.
140	Ellsworth	States where the amendments originated from.
145	Jessica Harris	Associated General Contractors. Testifies in support of HB 3422 A. Explains how the bill originated in 1999.
165	Harris	Explains the intent of HB 3422 A.
200	Harris	Mentions forms. Feels the bill is important and urge a do pass with -A5 amendment applicable to the law.
230	Chair Corcoran	Asks for an example of what you are trying to cure.
235	Harris	Responds the concern on subcontractors side has been about activity occurring in the four hour window which was too wide and compromise was to go to two hours. Claims issue with opening a bid time is about useful and efficient use of resources both on agency time and contractor time if bidding on multiple bids on the same day. States opening a bid time is about useful and efficient use of resources on both agency and contractor time.
235	Harris	Discusses when the work is normally done and what times are best. Feels moving to this time will better allow for access to their people and overall good set of changes to help the industry work with the law and present a good compromise.
260	Chair Corcoran	Asks why the law changed in 1999.
265	Harris	Responds changed because concern about an industry practice. Provides history of the law that passed in 1999 and why it was crafted.
270	Chair Corcoran	Asks how the agency feels about the -4 amendments.
272	Harris	Responds we are opposed to the -4 amendments.
276	Angi Dilkes	Speaking on behalf of the National Electrical Contractors Association, Plumbing and Mechanical Contractors Association, and Sheet Metal and Air Conditioning Contractors National Association. Testifies in support of HB 3422 A with the -5 amendments. Agrees with Ms. Harris’s assessment of the process.
285	Chair Corcoran	Asks what feeling is on the –A4 amendments.
288	Dilkes	Responds have looked at them but would not support them.
290	Sen. Walker	Comments on bid deadlines with a date and time.
300	Harris	States there is a need for a date and time because it will make for better results for public agencies.
305	Sen. Walker	Asks if the private sector adheres to those kind of timelines.
315	Harris	Responds the private sector does not have specific timelines but submission happens later in the day. Explains difference between private and public sectors.
320	Sen. Walker	Appreciates the hard work and compromise.
330	Jon Oshel	County Road Program Manager, Association of Oregon Counties. Testifies as neutral party on HB 3422 A. States came up with a compromise without discussing with people awarding contracts and there is negative impacts with proposed solution. Discusses the opening shortly after deadline of submission of bids with mostly smaller local agencies are troubled with most done before the governing body of the agency formalizing the process.
370	Oshel	Comments on trying to solve the issue of opening up the bids and provide four hours to turn it in being forced to state it is a non responsive bid and not award. Notes contractor opens bid and

390	Oshel	without turning in form he is free and clear to walk because he did not accept the contract and they were not allowed to offer it to him. Claims that is the reason for recommended delay.
<b>TAPE 58, B</b>		
005	Oshel	Provides further suggestions on amendments.
015	Sen. Walker	Mentions the Boards and when they meet. Claims with this language Boards need to be told times to meet or open things up with only staff.
017	Oshel	Asks if some contractors who bid are women.
020	Sen. Walker	Responds yes.
		Points out there are women in contracting business although Mr. Oshel keeps referring to contractors as only men.
022	Oshel	Apologizes claiming old habits are hard to break.
023	Chair Corcoran	Asks if there has been discussion with AGC, construction trade folks or bidders on this particular bill.
025	Oshel	Claims conversations were after the A-engrossed bill was adopted. States not aware of the amendments happening until after adopted.
030	Linda Ludwig	League of Oregon Cities. Testifies in support of HB 3422 A with -4 amendments. States two issues in opposition of the bill: <ul style="list-style-type: none"> <li>• Opening the bids immediately after the deadline</li> <li>• The change of hours which public portion disagrees with limiting the time</li> </ul>
050	Chair Corcoran	States does not seem that either one of you addressing the benefits of prohibiting bid shopping.
055	Ludwig	Responds in 1999 session very involved in preventing bid shopping. Expresses support of the original bill that passed the House because it made the disclosure requirement due at the time of submission of bids. Expresses concern in the time limitation for opening the bids which won't work very well in the smaller areas. Claims most of the cities like to do it in a public and open process.
070	Oshel	Restates concerns with the bill and -5 amendments. Feels no problem with having open immediately after but the problem is a situation where someone could walk. Asks if something can be done to make sure there is a penalty if someone decides they don't want the project and accomplishing the goal by not turning in the forms. Notes with that problem solved the time frame will work out fine. States issue on time of opening and not sure how this helps bid shopping problem.
080	Chair Corcoran	Comments will have to make that argument with the House if move to conference committee if not concurring with changes.
083	Chair Corcoran	Closes the public hearing on HB 3422 A and opens a work session on HB 3422 A.

**The following prepared testimony is submitted for the record without public testimony for HB 3422 A:**

**Seth Karpinski**  
**HB 3422 A – WORK SESSION**

**Submits written testimony (EXHIBIT J)**

085 Sen. Minnis

**MOTION: Moves to ADOPT HB 3422 A –A5 amendments dated 5/21/03.**

**VOTE: 4-0**

090 Chair Corcoran  
Sen. Walker

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

Asks to see a letter from the City of Eugene which restates the

093	Sen. Minnis	position of Ms. Ludwig. <b>MOTION: Moves HB 3422A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b>
098	Chair Corcoran	<b>Hearing no objection, declares the motion CARRIED.</b> <b>CHAIR CORCORAN will lead discussion on the floor.</b>
100	Chair Corcoran	Closes the work session on HB 3422 A. Opens a work session for possible reconsideration of HB 3061 A.
<b><u>HB 3061 A – WORK SESSION</u></b>		
120	Chair Corcoran	States interest in bringing bill back into committee.
125	Sen. Minnis	Claims opposition of the reconsideration.
130	Sen. Walker	States she is unclear as to what Senator Schrader’s issue is.
135	Chair Corcoran	Explains Senator Schrader’s issue. States bill was moved out so not a live or die situation and asked to do the reconsideration.
140	Sen. Starr	Claims the bill is simple with no opposition at the time when the bill was worked. Notes good idea to move the bill forward.
145	Chair Corcoran	Closes the work session on HB 3061 A and adjourns the meeting at 5:00 PM.

**EXHIBIT SUMMARY**

- A – HB 2407 B, -10 amendments dated 5/20/03, Dave Hendricks, 4 pp**
- B – HB 2237 A, -1 amendments dated 3/11/03, staff, 1 p**
- C – HB 2237 A, -A4 amendments dated 5/20/03, staff, 3 pp**
- D – HB 2237 A, written testimony, Scott Tighe, 2 pp**
- E – HB 2237 A, written testimony, Mark Landauer, 2 pp**
- F – HB 3120 A, -A3 amendments dated 5/5/03, staff, 1 p**
- G – HB 3120 A, -A4 amendments dated 5/20/03, staff, 4 pp**
- H – HB 3422 A, -A4 amendments dated 5/20/03, staff, 1 p**
- I – HB 3422 A, -A5 amendments dated 5/21/03, staff, 1 p**
- J – HB 3422 A , additional written testimony for the record, Seth Karpinski , 1 p**