

HOUSE COMMITTEE ON AGRICULTURE AND FORESTRY

January 18, 2001
3:30 PM

Hearing Room 50
Tapes 7 - 9

MEMBERS PRESENT: **Rep. Jeff Kropf, Chair**
 Rep. Al King, Vice-Chair
 Rep. Donna Nelson, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Elaine Hopson
 Rep. Wayne Krieger
 Rep. Mary Nolan
 Rep. Tootie Smith

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 Jennifer Goodman, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2130 Public Hearing and Work Session**
 HB 2036 Public Hearing and Work Session
 HB 2037 Public Hearing and Work Session
 HB 2048 Public Hearing and 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 7, A		
011	Vice-Chair King	Calls the committee to order at 3:35 p.m. Opens a public hearing on HB 2130.
<u>HB 2130 PUBLIC HEARING</u>		
012	Chuck Craig	Department of Agriculture (ODA). States that HB 2130 is an efficiency measure that the department is carrying for the Governor's Office of Executive Appointments. States that it pertains to the pesticide analytical research center which is a group of agencies that was formed 20 years ago to deal with public concern regarding pesticides. Explains that ODA investigates cases where there is a possible human health impact. Notes that there is a citizen member on the board who is appointed by the Governor. Clarifies that this bill proposes that the citizen member would be jointly appointed by ODA and the Assistant Director of Health rather than by the Governor. Explains that the board has no legal authority; it only serves as an advisory function. Says this bill would eliminate a step that occurs when the agency selects a candidate and submits the nomination to the Governor.
036	Vice-Chair King	Asks who would be the appointing authority.
037	Craig	Responds that it is the Director of Agriculture and the Assistant Director of Health, who is the head of the Health Division of the Department of Health and Human Services.
056	Vice-Chair King	Closes the public hearing on HB 2130 and opens a public

hearing on HB 2036.

HB 2036 PUBLIC HEARING

065	Representative Jeff Kropf	House District 37. Testifies on HB 2036. Discusses the Agri-Biotech (ABT) bankruptcy and the interim workgroup that reviewed Oregon's lien laws. Explains why HB 2036 was introduced. Declares a potential conflict of interest because he has worked in the grass seed industry.
259	Rep. Doyle	Declares possible conflict of interest. Expresses concern over the amount of paperwork created in the notification process.
288	Rep. Kropf	Replies that the legislation does not require that the farmers notify other farmer's liens for the same purpose, only individuals who have liens for other purposes. States that a good faith effort on the part of the farmer and the Secretary of State's office to comply with notification requirements would be based only on the information that is filed at the Secretary of State's office.
325	Rep. Ackerman	Asks if the agriculture producer is responsible for the notices.
330	Rep. Kropf	Replies that that is correct.
331	Rep. Ackerman	Asks Rep. Kropf if he is suggesting proposing amendments at a later time to impose the obligation on the Secretary of State.
335	Rep. Kropf	Responds that that is correct. States that the obligation would have to have some sort of language regarding good faith to hold harmless.
347	Rep. Doyle	Asks if there is a clause for immunity for the Secretary of State's office.
351	Rep. Kropf	Responds there is not. Adds that the immunity for farmers exists only if they follow the steps for a lien and the lien information turns out to be inaccurate.
371	Rep. Doyle	Asks if the Secretary of State's office would be liable if it failed in the notice processing and an agriculture producer was damaged.
378	Rep. Kropf	Agrees partially. Refers to a penalty for failure of agriculture producer to notify and certify payment to remove the lien.
398	Rep. Doyle	Asks if the Secretary of State has a notice delivery process in processing other types of liens.
415	Ray Kelly	Committee Administrator. Believes there is a process, but will need to check.
423	Rep. Kropf	Answers his impression was no.
431	Vice-Chair King	States that no one is signed up to testify from the Secretary of State's office, and it might be a good idea to have some one here.
437	Rep. Kropf	Agrees. Relays intention of notification process.
451	Rep. Smith	Asks if agricultural liens have precedence over all other liens.
456	Rep. Kropf	Answers that he does not know.
TAPE 8, A		
025	Walt Gowell	Oregon State Bar. Answers yes and no, it is a priority to preexisting security interests, which are typically the type of security interest or lien that exists on crops or animals or produce. States that agricultural liens will take priority over most other entities.
038	Rep. Smith	Asks for a definition of an agricultural producer.
040	Rep. Kropf	Responds that that issue will come up in the next bill.
044	Gowell	States that many questions may be answered in some of the other bills they will be discussing. Explains that HB 2130 is

		procedural and answers the question as to where to file. Reviews steps of where to file. States that as the law stands now, one has to search all county records to find lien information. Explains that this bill, however, brings this into the central filing system. Refers back to the question of who needs to be notified. States that as the law stands all other people who have claimed a lien on the same chattel.
085	Thomas Wrosch	Secretary of State's office. Expresses concern about where a lien is filed in a county. Refers to page 3, and county responsibilities.
103	Gowell	Refers to ORS 205.246 that gives authorization to county clerks to accept certain types of documents. Explains that line 22, deletes agricultural produce liens from the list.
111	Rep. Nelson	Asks what the responsibility is of the producer to other vendors in a lien process.
117	Rep. Kropf	Intends to only change the responsibility of filing and that would be to notify other prior lien holders as listed in the Secretary of State's office. Intends that the farmer should notify the bank that has extended credit to the company. Adds that others should be notified, specifically those who have extended credit and expect to draw upon the liens to satisfy their collateral needs.
146	Rep. Nelson	Asks about the farmer's liability to other vendors if they do not notify.
155	Rep. Kropf	Responds that the farmer should be required to notify because they receive priority.
169	Gowell	Adds that the new bill does not change the farmer's requirement to notify banks. Continues to discuss that what is changed is the obligation to notify other lien holders.
193	Rep. Nelson	Asks Mr. Wrosch if anybody else files anywhere else besides the Secretary of State's office.
197	Wrosch	Responds that with other liens yes. Explains that in the past all liens went through the county.
231	Vice-Chair King	Asks if there is a fiscal for the Secretary of State's office.
237	Rep. Kropf	Answers no, they aren't there yet. Adds that will be included in an amendment.
243	Kelly	States there is no expenditure impact.
259	Rep. Nolan	Questions why the committee would pass out a bill they know would need to be amended.
270	Rep. Kropf	Responds that legislation is complete when the number is plugged in. States that the bill is complete, he only wishes to take it a step further with the idea including the Secretary of State's office.
293	Vice-Chair King	Explains that by passing the bill now we can send it to the Senate for further deliberation with an amendment and then it will come back to us. Closes public hearing on HB 2036 and opens a public hearing on HB 2037.

HB 2037 PUBLIC HEARING

314	Rep. Kropf	Reviews HB 2037. Explains that it changes the definition of who a person is in regards to agricultural produce lien. Adds that this change will include a broader definition of those who can claim a lien.
352	Gowell	States that HB 2037 designs consistency in the definition of person and security interest with the definitions under the agriculture service lien bill and the green grower's bill.
362	Rep. Ackerman	Asks about limited liability companies and whether they should

		be included within the definition of person.
345	Gowell	Defers to Legislative Counsel.
387	Rep. Ackerman	Asks if a public entity could be a farm producer and therefore have to report a lien.
394	Rep. Kropf	Responds that he cannot think of any public entity that would be involved in the process of farming.
410	Rep. Ackerman	Asks if the Department of Corrections might be considered a public entity who farms.
413	Rep. Nolan	Suggests Oregon State University.
416	Rep. Kropf	States he is almost certain they do not sell for a profit.
423	Craig	Responds that OSU has sold and perhaps made a profit. Suggests that prisons could fall under this category. Adds that another entity may be between the city and farmers.
454	Rep. Ackerman	Proposes that perhaps another entity could be a farm that is encumbered with a mortgage deed of trust to the Department of Veteran Affairs that is foreclosed with crops still on the ground.
464	Craig	Responds that there are two types of encumbrances; one is the land and the other could be produce.

TAPE 7, B

017	Rep. Ackerman	Attempts to define entity as is represented in this bill.
020	Rep. Kropf	Suggests that perhaps the bill should be modified to include these types of identities.
028	Gowell	Believes it would be a simple modification to the bill.
033	Rep. Nolan	Suggests that Indian tribes are often left out of these types of bills.
038	Rep. Kropf	Agrees with Rep. Nolan.
043	Rep. Doyle	Declares possible conflict of interest. Discusses farming and government entities. Questions the validity of the state owning farm use land and whether, by expanding these rights, are they then encroaching on these other statutes.
067	Gowell	Responds that he is familiar with the case Rep. Doyle is referring to. Agrees that city often does. Asks why they should be precluded. Adds that the Court of Appeals has not come to a conclusion.
069	Vice-Chair King	Closes public hearing on HB 2037 and opens a public hearing on HB 2048.

HB 2048 – PUBLIC HEARING

089	Rep. Kropf	Reviews HB 2048. Describes the process of a self-funded insurance policy for farmers in Washington and Idaho. Asks that a task force be set up to look into this idea.
176	Craig	Supports HB 2048.
180	Rep. Kropf	Submits and refers to (EXHIBIT A) . States that there is a fiscal impact of approximately \$63,224.
185	Vice-Chair King	Keeps the public hearing on HB 2048 open and reopens a public hearing on HB 2036 and HB 2037.

HB 2036, HB 2037, HB 2048 – PUBLIC HEARING

203	Tim Martinez	Oregon Bankers Association. Supports HB 2036 and HB 2037.
229	Rep. Nelson	Expresses concern regarding the predicament of the farmers. Asks if there is anything else to be done except passing these bills.
224	Martinez	Hopes that the ABT situation is an anomaly, but they have to go with the current laws. These three bills HB 2036, HB 2037, and HB 2051 are hopefully going to improve things in the future.

273	Rep. Nelson	Asks if he does not see any other way to assure the ABT situation never occurs again.
277	Martinez	Responds that they have spent years coming up with these three bills.
291	Rep. Nelson	Asks Mr. Wiley if he knows how many of the 1500 farmers will survive.
296	Donn Wiley	Vice President of Western Bank. Replies that it is difficult to guess but it has had a significant impact on the industry as a whole.
311	Rep. Nelson	Asks if he can give her a percentage estimate.
313	Wiley	Replies that it will probably be a small percentage, at least at his bank.
323	Rep. Doyle	Asks if there is going to be any benefit to the banking industry if HB 2036 passes.
331	Martinez	Responds in the affirmative. Explains that it will take less time with one stop at the Secretary of State's office.
360	Gowell	Responds to Rep. Nelson's question regarding whether there is anything else that can be done for the farmers involved in ABT by answering that he does not know yet. Adds that the federal government has passed a \$25 million loan program that provides 18 months of interest free loans while the claims are being pursued, up to 65% of the amount of the lien claim itself. States that the proposal to accept 29% on the dollar also has some other ways of attaining additional monies.
396	Rep. Smith	Asks that Mr. Gowell define agricultural producer.
398	Gowell	Responds that there is a laundry list of definitions that is becoming even larger.
424	Rep. Smith	Asks if timber is considered a crop.
427	Chair Kropf	Responds that it is not at this time considered a crop. Asks Mr. Gowell if he knows.
442	Gowell	Responds that there is a logger's lien.
453	Craig	States that they support HB 2036. Filing with Secretary of State will be helpful and timely.
505	Jean Wilkinson	Oregon Farm Bureau. Supports HB 2036, HB 2037, and HB 2048. Adds that HB 2051, which will be considered at a later date, is also supported. States that the Farm Bureau wants to assist farmers in management and security for payment.

TAPE 8, B

045	Wilkinson	Submits and testifies from (EXHIBIT B) . States that liens are not they only way farmers can benefit from this bill. Notes that HB 2048 helps with further tools in assisting these farmers.
050	Terry Witt	Executive Director, Oregonians for Food and Shelter. States that his organization supports HB 2036, HB 2037, and HB 2048.
059	Dave Nelson	Executive Secretary, Oregon Seed Council. States that he supports HB 2036 ands HB 2037. Supports the idea of discussing the issues in HB 2048. Continues in discussing bonds and indemnity funds as helpful tools for farmers. Adds that HB 2048 could include other options for farmers.
124	Chair Kropf	Closes the public hearing on HB 2036, HB 2037, and HB 2048. Opens a work session on HB 2036.

HB 2036 – WORK SESSION

126		HB 2036-1 amendment submitted by staff (EXHIBIT C) .
127	Vice-Chair King	Agrees with –1 amendments, which adds “20 th ” into page 2, line

		17 of HB 2036.
138	Rep. King	MOTION: Moves to ADOPT HB 2036-1 amendments dated 01/17/01.
		VOTE: 9-0
		AYE: In a roll call vote, all members present vote Aye.
143	Chair Kropf	The motion CARRIES.
154	Rep. Nolan	Asks if there will be a fiscal impact.
161	Rep. Kropf	Responds that yes there will be.
163	Rep. King	MOTION: Moves HB 2036 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Krieger
165	Chair Kropf	The motion CARRIES.
		REP. KROPF will lead discussion on the floor.
167	Chair Kropf	Closes the work session on HB 2036 and opens a work session on HB 2037.
		<u>HB 2037 – WORK SESSION</u>
181	Rep. Ackerman	Asks about amending the definition of the word person in the bill.
187	Chair Kropf	Responds that Legislative Counsel will have to do quite a bit of research to amend this. Polls the committee to get an idea of their support for pushing this bill forward.
204	Rep. King	Wants to hold off until another meeting.
215	Rep. Nolan	Wants to also hold off until another time. Expresses concern about the entity question.
221	Rep. Smith	Asks whom we are protecting in this bill. Believes that the committee should move forward to protect farmers.
231	Rep. Ackerman	States he is concerned about the definition of person, especially in regard to a public entity and Indians. Feels reluctance to pass this bill on as is.
250	Chair Kropf	Clarifies that there is no reluctance to consider the definition of person.
260	Rep. Ackerman	Asks what the process is to make an amendment.
263	Chair Kropf	Explains the House rules regarding conceptual amendments. States that he wants to conceptually amend simple requests as to definition of person.
267	Rep. Ackerman	States that he does not believe his amendment is complicated. Expresses confusion regarding the amendment process.
300	Chair Kropf	States that according to his assistant they cannot pass conceptually amended bills in committee.
304	Kelly	States that floor action cannot be taken on conceptual amendments.
310	Chair Kropf	States that they can, however, conceptually amend in committee.
311	Kelly	Responds that is correct. Adds that before it reaches the floor Legislative Counsel must complete the amendment, then the bill would go to the floor and the committee as a whole would act.
314	Chair Kropf	States that now they can conceptually amend HB 2037, pass it out, and Legislative Counsel would rewrite it. States that tribal governments is a whole other subject.
331	Rep. Nolan	States that that works for her.
332	Rep. Hopson	Supports the conceptual amendments. Wants to move forward.
343	Rep. Nelson	Supports the conceptual amendments. Wants also to move forward.

352 Rep. Doyle Asks if the amendment includes limited liability companies and cooperatives.
357 Rep. Ackerman Replies that that is his intent.
358 Rep. Doyle Supports the conceptual amendment and wishes to move forward.
360 Rep. Nolan Asks about public entity.
366 Rep. Ackerman Asks to also include public entity.
367 Chair Kropf Recesses meeting at 5:10 p.m.
368 Chair Kropf Calls the meeting back to order at 5:21 p.m.
392 **Rep. King**

MOTION: Moves to TABLE HB 2037.

VOTE: 8-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Krieger

The motion CARRIES.

399 **Chair Kropf**
405 Chair Kropf

Closes the work session on HB 2037 and opens a work session on HB 2048.

HB 2048 – WORK SESSION

411 **Rep. King**

MOTION: Moves HB 2048 to the floor with a DO PASS recommendation.

422 Rep. Hopson

States that she is hesitant to pass measures outside the Governor's budget. Asks that it not pass.

436 Chair Kropf

States that if it passes, there will need to be a subsequent referral to Ways and Means.

455 Rep. King

Recommends that the motion be changed to a do pass with a referral to Ways and Means.

466 Rep. Hopson

Agrees with this and states she will support it.

467 Rep. King

Withdraws his previous motion.

468 **Rep. King**

MOTION: Moves HB 2048 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.

VOTE: 8-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Krieger

The motion CARRIES.

469 **Chair Kropf**
471 Chair Kropf

Closes work session on HB 2048 and opens a work session on HB 2130.

HB 2130 – WORK SESSION

TAPE 9, A

035 **Rep. Nolan**

MOTION: Moves HB 2130 to the floor with a DO PASS recommendation.

VOTE: 8-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Krieger

The motion CARRIES.

036 **Chair Kropf**

REP. T. SMITH will lead discussion on the floor.

037 Chair Kropf

Closes the work session on HB 2130. Adjourns the meeting at 5:30 p.m.

Submitted By,

Reviewed By,

Jennifer Goodman,

Ray Kelly,

Committee Assistant

Committee Administrator

EXHIBIT SUMMARY

A – HB 2048, fiscal analysis, Rep. Jeff Kropf, 2 pp.

B – HB 2036, written testimony, Jean Wilkinson, 1 p.

C – HB 2036, -1 amendment, Staff, 1 p.