

HOUSE COMMITTEE ON GOVERNMENT EFFICIENCY

January 30, 2001
8:30 AM

Hearing Room D
Tapes 11 - 12

MEMBERS PRESENT: **Rep. Jerry Krummel, Chair**
 Rep. Chris Beck, Vice-Chair
 Rep. Patti Smith, Vice-Chair
 Rep. Alan Brown
 Rep. Bill Garrard
 Rep. Jim Hill
 Rep. Deborah Kafoury
 Rep. Jeff Kruse
 Rep. Steve March
 Rep. Carolyn Tomei
 Rep. Kelley Wirth

STAFF PRESENT: **Matt Wingard, Committee Administrator**
 Patrick Brennan, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2354 Public Hearing and Work Session**
 HB 2517 Public Hearing

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 11, A 004	Chair Krummel	Calls the meeting to order at 8:35 a.m. Opens a public hearing on HB 2354.
<u>HB 2354 PUBLIC HEARING</u>		
018	Matt Wingard	Committee Administrator. Gives a brief description of the bill. Says the bill requires private collection agencies collecting state funds to follow the same confidentiality standards as the agency for which they are collecting the funds.
023	Jon DuFrene	Statewide Accounts Receivable Management Program, Department of Administrative Services (DAS). Testifies in support of HB 2354 (EXHIBIT A). Discusses procedures for maintaining confidentiality of data between state agencies. States that private collection agencies must be aware of the confidentiality requirements of the state agencies for which they are collecting money. Explains the circumstances under which debts previously written off can become collectible again.
051	Steve Little	Oregon Department of Revenue (ODR). Testifies in support of HB 2354 (EXHIBIT B). Discusses contractual relationships between ODR and private collection agencies. Recalls that in 1991 the legislature ended the practice of referring delinquent accounts to ODR after the accounts were written off. Comments on procedures for certification of non-collectibility. Remarks that on occasion the cost of collecting an account exceeds the revenues gained through collection. Indicates that the HB 2354 removes the reference to ODR as a housekeeping measure.
083	Barbara Hunter	Oregon Employment Department (OEDD). Testifies in support

		of HB 2354 (EXHIBIT C). States that the measure simply places the same restrictions on private collection agencies as the ones under which ODR must operate. Describes the training that agency employees receive regarding privacy. Asserts that information vital to the administration of the debt collection program may not be forthcoming if privacy is not guaranteed. States that the measure will help the state collect delinquent payments through private collection agencies.
115	Rep. Hill	Wonders why the confidentiality requirements cannot simply be written in to the contracts signed with private collection agencies.
118	Little	Answers that they can, but that the bill reinforces the practice. Mentions that many state agencies have confidentiality provisions, but that others do not.
125	Rep. Hill	Asks if there has ever been a problem with the release of confidential information by a private collection agency under contract with the state.
128	Little	Replies that so long as the possibility exists there is a problem, which prompted the need to reinforce the protection against the release of confidential information.
140	Rep. Hill	Refers to the consequences of release of confidential information by OEDD. Inquires whether there is a blanket statute governing consequences of release, or whether other agencies simply have no standards or consequences.
153	Little	Replies that he does not know and offers to gather the information upon request. Indicates that the agencies with standards and consequences are not those that typically are involved in collecting unpaid debts.
161	DuFrene	Remarks that ODR has stricter confidentiality requirements than do other agencies. Explains that consequences for disclosure need to refer to statute on an agency-by-agency basis.
173	Rep. Brown	Wonders whether a person or business that fails to pay a debt to a state agency may some day find that failure turning up on a credit report.
181	DuFrene	Replies that contracts are designed to facilitate the varying needs of the agencies. States that in this respect the specific contract is referenced to determine what types of disclosure are permitted, including disclosure to credit bureau, depending on the specific needs of the agency.
202	Rep. Brown	Asks whether the information is shared by agencies.
204	DuFrene	Replies that is determined on an agency-by-agency basis and depends on the specific contracts.
212	Rep. Kruse	Asks whether paying an outstanding debt to an agency can tip off other agencies to which the debtor may owe money.
223	DuFrene	Replies affirmatively.
226	Chair Krummel	Comments that confidentiality is sometimes used as a curtain to prevent disclosure of information that would otherwise need to be disclosed. Asks whether HB 2354 creates such a curtain.
236	DuFrene	Clarifies that the measure merely identifies the range of information that may be shared and discussed. Asserts that rather than creating a veil of secrecy, the bill levels the playing field between state agencies and collection agencies.
254	Rep. Hill	Inquires whether an emergency clause should be added to the bill to make it effective upon passage.

257	DuFrene	Replies that is a good idea and requests that the committee add an emergency clause.
265	Chair Krummel	Closes the public hearing and opens a work session on HB 2354.
<u>HB 2354 WORK SESSION</u>		
277	Rep. Hill	MOTION: Moves to AMEND HB 2354 on page 1, in line 2, before ".", insert "; and declaring an emergency", and on page 2, after line 25, insert "<u>SECTION 3. This 2001 Act being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this 2001 Act takes effect on its passage.</u>"
287		VOTE: 10-0-1
	Chair Krummel	ABSENT: 1 - Kafoury
290	Rep. Hill	Hearing no objection, declares the motion CARRIED.
		MOTION: Moves HB 2354 to the floor with a DO PASS AS AMENDED recommendation.
295		VOTE: 10-0-1
	Chair Krummel	ABSENT: 1 – Kafoury
303	Rep. Hill	Hearing no objection, declares the motion CARRIED.
		MOTION: Moves BH 2354 be placed on the Consent Calendar for floor consideration.
311		VOTE: 10-0-1
	Chair Krummel	ABSENT: 1 – Kafoury
313	Chair Krummel	Hearing no objection, declares the motion CARRIED.
		Closes the work session on HB 2354 and opens a public hearing on HB 2517.
<u>HB 2517 PUBLIC HEARING</u>		
315	Matt Wingard	Committee Administrator. Gives a brief description of the bill. Says the bill imposes strict liability on inspectors in cases where a structure does not comply with state building codes and is certified by the inspector. Indicates that testimony has been submitted to staff for the committee's consideration (EXHIBIT D).
331	Rep. Kruse	Testifies in support of HB 2517. Calls attention to the rapidly rising cost of inspections for building a home. Says that inspectors are held liable only if they are taken to court. Asserts that when inspections fail to pick up problems the inspector should be liable for their mistake. Estimates it will not take any longer to perform inspections if they are performed correctly. Acknowledges that the measure may need to be amended in order to make it acceptable to all affected parties.
TAPE 12, A		
019	Joe Schweinhart	Legislative Director, League of Oregon Cities (LOC). Testifies in opposition to HB 2517. Argues that the measure would unfairly shift responsibility from builders to inspectors. Predicts that if inspectors could be held liable they would be difficult to recruit. Concludes that those who do the work should be held responsible for doing it correctly.
039	Rep. Hill	Asks how cities perform quality control for their inspectors. Inquires whether a city can be held liable if a building is allowed to be finished despite code violations.
048	Schweinhart	Replies that quality control is performed on an individual basis

065	Rep. Smith	and that there is no double-checking of inspection results. Asks who is allowed to bring forward complaints about inspectors.
068	Schweinhart	Replies that anyone may come forward with a complaint. Says the measure would compel inspectors to look at projects in too much detail. Says that inspectors do the best they can under the current constraints and guidelines.
082	Rep. Smith	Requests an explanation of the constraints inspectors are under.
083	Schweinhart	Explains that visual inspection is not always possible for every soldered joint, for example, if some of the joints are located behind a wall.
088	Rep. Wirth	Asks whether existing liability laws provide sufficient recourse for injured parties.
093	Schweinhart	Answers that the recourse available is not perfect, but is sufficient.
097	Rep. Garrard	Wonders who would be liable in a case where a city inspector was reviewing a city project.
100	Schweinhart	Replies that the city would be responsible in such a case.
103	Rep. Garrard	Mentions that such an occurrence happened recently in his district and the county was liable.
112	Rep. Hill	Asserts that the current situation does not provide sufficient liability. Inquires whether local jurisdictions should be required to have a sufficient level of liability protection.
122	Schweinhart	Refers the question to other witnesses.
125	Rep. Tomei	Requests an estimate on how long it takes to inspect a typical home.
128	Schweinhart	Responds that the time it takes to inspect a home is dependent on the size and complexity of the home and the number and type of problems, if any, that are found.
142	Bill Cross	Washington County. Testifies in opposition to HB 2517 (EXHIBIT E) . Asserts that the bill will make inspections problematic. Indicates that a typical, single-family dwelling requires between 16-20 inspections, more if there are significant problems found. Says it is not feasible for inspectors to visually examine every beam, joint, and bolt. Describes inspections as a basic review to determine whether building standards and requirements are being adhered to. Asserts that timeliness of inspections is also an important issue to clients. Mentions the program of issuing “minor labels”, which are provided for small jobs without permits and require only spot-check inspection.
200	Cross	Reiterates the need for inspections to be both accurate and timely. Presumes that the bill will increase inspection time, thereby increasing the cost to owners. Asserts that the added cost of inspections would be more than the improved inspections are worth. Suggests that if better inspections are the goal then the legislature should mandate them, but that it should be cognizant that the cost will increase.
230	Rep. Hill	Asks if there are any problems in the inspection system as it exists today.
233	Cross	Acknowledges that there are problems maintaining accountability for inspectors but that those are addressed by providing training for skills and code awareness, similar to how trade unions address them.
253	Rep. Hill	Asks how many inspectors have been put into remedial training

266	Cross	or had their licenses revoked as a result of poor performance. Responds that situations where unsafe buildings are built that cause liability or damages are very limited, but concedes there are some examples. Indicates that in such cases the contractor or building designer is typically held liable, though in one case the city settled because of negligence to note changes that had been required earlier. Says that Oregon has high standards when compared to other states. Recalls only one recent case where certification has been rescinded.
316	Rep. Smith	Comments that many inspectors need to provide better customer service. Asks whether the minor labels program is statewide.
327	Cross	Replies that it is voluntary statewide, though it is mandatory in the tri-county area. Says that there may be legislation introduced in the near future that would extend a pilot program called "Master Builder," which allows contractors to do self-inspection on certain non-critical projects such as sheet rock. Says that programs like master builder are put forth in part due to limited resources and the extensive time it takes to perform inspections.
365	Rep. Wirth	Wonders how HB 2517 might affect builder liability.
369	Cross	Answers that it will not have much effect on builder liability, as they will likely be at least co-defendants in most suits. Predicts that inspectors will most often be held liable in cases where the contractor who performed the work is no longer solvent.
398	Rep. Wirth	Asserts that inspectors are responsible for ensuring compliance. Wonders what impact it would have on the role of standards and building codes

TAPE 11, B

009	Cross	Replies that the measure would not reduce the importance of building codes, which are relatively black and white despite a good deal of interpretation. Says that holding inspectors liable for problems will in turn prompt them to hold contractors to the highest standards at all times, which may or may not be excessive.
026	Rep. Wirth	Echoes Mr. Cross' statement regarding the diminishing returns of more intense inspection. Suspects that the goal is to allow more interpretation in adhering to building codes.
030	Cross	Responds that the measure would have the opposite effect, as inspectors adhere more closely to the codes in order to limit the amount of liability.
038	Rep. Wirth	Asks whether existing laws provide adequate recourse for injured parties.
041	Cross	Replies that they do except for a few cases.
054	Art Schlack	Association of Oregon Counties (AOC). Testifies in opposition to HB 2517. Expresses concern about moving from interpretation to strict adherence of codes. Foresees that the measure would cause result in more damage suits filed against local governments, not just architect and builder. Says it is harder to demonstrate negligence on the part of inspectors. Asserts that the bill will increase the cost incurred by the state as well, as it performs inspections on many buildings. Reiterates that inspections will take longer, fees will increase, and more inspectors will be necessary. Predicts that counties will re-evaluate their inspection programs and, in many cases, turn them over to the state.

101	Rep. Garrard	Agrees that the measure would drive local governments from the inspection business.
109	Joe Brewer	Building Codes Division. Testifies to a position of neutrality on HB 2517 (EXHIBIT F). Says that Oregon has traditionally been progressive with regard to inspections in several ways: <ul style="list-style-type: none"> • Requiring inspectors to have experience doing the tasks they are inspecting • Allowing cities first chance to administer inspections, then counties, with the state picking up the remainder Says the state currently ends up inspecting primarily in rural Oregon. Indicates that building codes require seven inspections, but that many others are typically requested. Estimates that change could be costly, considering that 68,000 inspections were performed statewide in 2000. Hypothesizes that the measure could reduce the use of judgement in the field, which is typically the cause of problems. Echoes concerns that more inspection programs would be returned to the state.
166	Brewer	Suggests that final inspections would clear up many of the issues this measure seeks to address and could be used instead. Indicates that Oregon has moved away from a strong regulatory presence to more self-inspection, such as through the minor project and master builder programs. Reiterates that the inspection process is not designed to catch every problem, but to review a few key features and practices.
194	Rep. March	Asks how many state inspectors there are.
198	Brewer	Replies that there are approximately 50 state inspectors.
211	Ralph Groener	Association of Federal, State, County, and Municipal Employees (AFSCME). Testifies in opposition to HB 2517. Mentions that AFSCME represents most inspectors. Says that Oregon is a leader in inspections and has set numerous field regulations. Indicates that the State Building Codes Division oversees the quality and competence of the inspection system. Refers to SB 587 (1999) which further clarified the inspection process.
265	Groener	Explains the need to provide building permits in a timely manner. Says the state does not offer a salary high enough to recruit sufficient numbers of inspectors, losing them to the private sector trades and local governments. Comments on ongoing education for inspectors. Expresses opposition to any measure that would reduce standards.
312	Groener	Notes that the economy is slowing. Opposes the bill because it singles out inspectors and ties them to litigation above current standards. Suggests that the current situation is already balanced and that tipping it one way or the other is likely to cause problems.
365	Chair Krummel	Asks whether an inspector is liable if a structure complies initially then fails later.
375	Rep. Kruse	Replies affirmatively. Discusses the position of liability of inspectors. Says the ultimate goal is to provide homeowners a clear path of recourse in the event of a structural failure.
TAPE 12, B 005	Chair Krummel	Requests clarification whether Rep. Kruse is proposing

009	Rep. Kruse	expanding limitations of liability. Clarifies that he is not proposing to do so but that he may be amendable to the idea.
012	Rep. March	Suggests that if the concern is liability and cost to the owner it might be better to set up some sort of liability fund.
016	Rep. Kruse	Agrees that might be a viable option. Says the issue the bill addresses is not critical but that it is a point of concern that should be addressed appropriately, if not necessarily immediately.
024	Rep. Smith	Wonders whether the initial inspector or the final inspector would be held liable.
026	Rep. Kruse	Presumes the initial inspector would be held liable, as final inspection cannot necessarily review all details of a project. Submits that final inspectors are essentially signing off on a finished product.
034	Rep. Garrard	Applauds the effort to address a perceived problem but says that this measure is not the right way to do so.
038	Chair Krummel	Encourages working on compromise amendments and says further hearings may be held in the event that a compromise is reached. Echoes Rep. Smith's comments regarding the need for inspectors to provide quality customer service.
055	Chair Krummel	Adjourns the meeting at 9:55 a.m.

Submitted By,

Reviewed By,

Patrick Brennan,
Administrative Support

Matt Wingard,
Administrator

EXHIBIT SUMMARY

- A – HB 2354, testimony, Jon DuFrene, 2 pp.**
- B – HB 2354, testimony, Steve Little, 1 p.**
- C – HB 2354, testimony, Barbara Hunter, 3 pp.**
- D – HB 2517, testimony, Mark Landauer, 2 pp.**
- E – HB 2517, testimony, Bill Cross, 2 pp.**
- F – HB 2517, testimony, Joe Brewer, 2 pp.**