

# HOUSE COMMITTEE ON GOVERNMENT EFFICIENCY

February 27, 2001  
8:30 AM

Hearing Room D  
Tapes 23 - 24

**MEMBERS PRESENT:**     **Rep. Jerry Krummel, 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**

**MEMBER EXCUSED:**     **Rep. Chris Beck, Vice-Chair**

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

**MEASURE/ISSUES HEARD:**     **HB 2719 Public Hearing and Work Session**  
                                      **HB 2720 Public Hearing and Work Session**  
                                      **HB 2721 Public Hearing and Work Session**

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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 23, A</b>		
004	Chair Krummel	Calls the meeting to order at 8:37 a.m. Opens a public hearing on HB 2719.
<b><u>HB 2719 PUBLIC HEARING</u></b>		
008	Matt Wingard	Committee Administrator. Gives a brief description of the bill. States the bill allocates up to \$250,000 in lottery money per biennium to the State Fire Marshal's Fire Protection Fund for redistribution as grants. Indicates that the bill requires the State Fire Marshal to appoint an advisory committee to review needs and make recommendations as to the application of the fund.
015	Rep. Jeff Kropf	House District 37. Testifies in support of HB 2719. States that the measure provides an opportunity to provide aid for small fire stations across the state.
042	Ken Armstrong	Oregon Fire Chiefs Association (OFCA). Testifies in support of HB 2719 ( <b>EXHIBIT A</b> ). Explains that HB 2719 is part of a package of bills designed to provide assistance to rural fire districts.
057	Ed Wilson	Portland Fire Bureau. Testifies in support of HB 2719. States that the bill is critical for helping equip small fire districts. Clarifies that his district does not benefit from the measure, but that he recognizes the needs of many smaller districts and therefore supports the measure.
068	Jeff Johnson	Tualatin Valley Fire and Rescue. Testifies in support of HB 2719. Indicates the measure also does not benefit his district. Remarks that many small districts are struggling to gather the

		tools, safety equipment, and personnel and needed to do their jobs safely and effectively. Predicts that unless better equipment is provided there may be abandonment of some rural fire districts.
089	Rep. Kruse	Supports the intent of the measure but expresses concern about using lottery funds for yet another purpose. Wonders why the proponents chose to use lottery funds as opposed to General Fund dollars.
094	Rep. Kropf	Replies that given the tightness of the budget it was believed it would be difficult to secure General Fund dollars. Recognizes the concerns regarding the supposed “unending flow” of lottery funds.
104	Rep. Kruse	Suggests that the co-chairs of the Committee on Ways and Means (W&M) make little distinction between lottery and General Fund dollars. Comments the use of lottery dollars has changed a lot from its original intent. Says he would be more comfortable asking W&M if they would be amenable to using general fund dollars.
118	Rep. Garrard	Notes that some rural fire districts are also trying to provide ambulance service and wonders whether the money could be used for such purposes.
124	Armstrong	Responds that the measure focuses on extremely small cities and districts and that it is unlikely that those municipalities are trying to provide ambulance service. Says the intent is on the occupational safety and health of Oregon firefighters and that ambulance service was not considered. Agrees that resources are limited and that General Fund and lottery dollars are essentially the same. Explains that the purpose of the allocation could best be tied to the economic development purpose of lottery funds.
155	Rep. Kruse	Comments that many people seem to view lottery funds as “free money,” using Ballot Measure 66’ allocation of lottery funds for state parks as an example. Suggests that the initiative process will likely continue to create similar demands on lottery dollars.
169	Armstrong	Acknowledges that the debate regarding the proper use of lottery funds is likely to continue, but that this measure simply seeks a small amount of money to fund a small program.
174	Rep. March	Remarks that if the measure is to be considered economic development then it should be expected to possibly result in a return on the investment, which is unlikely at best. Suggests that the money should be allocated on a loan-only basis, with the expectation that the money will be repaid.
182	Armstrong	Replies that the program will likely be administered in the form of loans, though there will probably be some districts unable to repay funds due to economic hardship. Explains that economic development is justified by the fact that a community with adequate fire protection is better able to protect local business investments.
198	Rep. Kropf	Adds that improved fire protection also provides better insurance rates for local businesses, which should help overcome hindrances to businesses relocating to rural areas.
221	Rep. Hill	Asks whether the measure has a subsequent referral to W&M. Inquires whether other funding sources were considered, such as the budget for the State Fire Marshal’s Office.
233	Armstrong	Replies that there was no discussion of utilizing other funding

243	Johnson	sources, such as the Fire Insurance Premium Tax (FIPT). Mentions that there was discussion about the possibility of increasing the FIPT, but that it abated when it was learned that it has a retaliatory effect on the General Fund.
271	Rep. Hill	Clarifies that the measure may not require an increase in the FIPT, but rather reconsideration of how to use the existing revenues from the tax. Says W&M always has to make decisions as to how best to allocate its limited funds, as rural fire districts may be more important than the purposes for which they are currently used.
290	Chair Krummel	Notes that currently statute allows cities with populations less than 5,000 to borrow against the equipment loan fund. Inquires as to the funding source for the fund.
303	Armstrong	Replies that no money has ever been allocated to the equipment loan fund. States that HB 2719 came about in part because the fund was discovered and it was decided to make an attempt to allocate money to it.
331	Burton Weast	Oregon Fire District Directors Association. Testifies in support of HB 2719.
340	Glenn Andriesen	State Fire Marshals Office. Testifies in support of HB 2719. States that his office will soon be bringing its budget to W&M. Indicates that the budget request addresses a shortfall in the FIPT, which will result in an eight-percent reduction in staff, education, and safety equipment. Says FIPT revenues are shared with several other offices related to fire services.
370	Chair Krummel	Requests additional explanation of the retaliatory effect from raising the FIPT.
375	Rep. Hill	Clarifies that he was merely curious about whether FIPT funds could be reallocated to the equipment loan fund.
385	Andriesen	Says the Fire Marshal's Office is struggling to maintain its current service level in the face of impending budget cuts, but could possibly arrange to help administer the fund. Mentions that FIPT is shared with three other entities that also create separate draws on resources. Says an increase in the tax was proposed this biennium, but the retaliatory effect swayed the Governor from doing so. Explains the leveling effect of the retaliatory effect.
<b>TAPE 24, A</b>		
030	Weast	Comments on how differently fire districts operate across the state. Says most fire fighters are volunteers who respond to emergencies such as fires and traffic accidents on state highways. Indicates that many rural fire districts are forced to resort to auctions, bake sales, and other such fundraisers to pay for basic equipment. Asserts that the bill is a small but important step for addressing the important needs of districts.
056	Randy Brown	President, Oregon Fire District Director's Association (OFDDA). Says that lottery funds are transparent and can be used anywhere, while General Fund dollars should be tied to the geopolitical area where they are collected. Asserts this is an idea that has involved a lot of time, thought, and effort to find the best way to help rural districts meet their equipment needs. Describes the cost of some of the needed equipment.
081	Rep. Hill	Clarifies that he does not have a problem with the bill or using lottery dollars for it. Says this is more important than pilot

studies on information technology projects that have been allocated General Fund dollars on behalf of the Oregon State Police (OSP). Suggests that the bill's proponents make their case for the program to W&M and consider both as potential funding sources.

- 102 Weast Acknowledges that the Fire Service's relationship with OSP is part of the equation. Asserts that more direct access to OSP and development of the Fire Marshal's Office budget is needed and that a system is being developed that could provide greater input and counsel. Reiterates that action needs to be taken on this measure before that process is completed.
- 125 Rep. Tomei Requests confirmation that the FIPT is shared with other entities.  
129 Weast Replies that some of the fund is used by the Department of Public Safety Standards and Training (DPSST), as well as for certifying and training firefighters as required by the Occupational Safety and Health Administration (OSHA) and state law. Says the Fire Service has been supportive of using the funds for training. Indicates that the fund is also used to pay for arson investigations performed by state police. Asserts that the Fire Service needs to have some oversight or input on the use of the FIPT revenues.
- 155 Lara Butterfield Safeco Insurance Company. States her organization shares the same concerns as the proponents of the measure.
- 164 Rep. Kafoury Says it would be helpful to understand the impact of funding this bill on the other uses of lottery revenues.
- 167 Chair Krummel Responds that W&M will make such decisions. Reiterates that the program has been in statute since 1991, but has never been funded. Asserts it is time that W&M finds a way to fit it into the balance sheet. Closes the public hearing and opens a work session on HB 2719.

**HB 2719 WORK SESSION**

**185 Rep. Hill**

**MOTION: Moves HB 2719 to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.**

- 193 Rep. Kafoury Says she supports the bill but not the use of lottery dollars to fund it.
- 198 Rep. March Supports the concept of support for rural firefighters, but also has concerns about lottery funding and the use of the economic development justification.
- 205 Rep. Tomei Recalls living in a community with a volunteer fire department. Acknowledges the concerns of Reps. Kafoury and March.
- 215 Rep. Kruse Requests that once the bill is assigned to a W&M subcommittee that the chair relate to them this committee's concerns about funding through lottery dollars.
- 225 Rep. Garrard Argues that the State Fire Marshal's Office needs to reevaluate its priorities in order to provide funding for the program.
- 235 Rep. Smith Says she also lived in rural fire district. Expresses concern that the measure does not address training, only equipment. Laments that there is not enough money for training, which is important considering the volunteer nature of the fire districts in question.
- 247 Chair Krummel Offers to take concerns to W&M. Says he would also like to use General Fund dollars, which would likely be more stable. Encourages the measure's proponents to look at their priorities

within the FIPT to try and fund part of the program.

275

**VOTE: 10-0-1**

**EXCUSED: 1 – Beck**

**Chair Krummel**

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

282

Chair Krummel

Closes the work session on HB 2719 and opens a public hearing on HB 2720.

**HB 2720 PUBLIC HEARING**

285

Matt Wingard

Committee Administrator. Gives a brief description of the bill. States that the measure allows fire protection districts or cities to fight fires or provide public safety services to unprotected or inadequately protected districts or territories, or to areas lacking structural fire protection.

300

Rick Gibson

Oregon Department of Forestry (ODF). Testifies in support of HB 2720 (**EXHIBIT B**). Says there is some question as to whether fire districts can bill property owners for the cost of fighting structural fires. Indicates that ODF will work on amendments to clarify the matter.

346

Chair Krummel

Asks whether ODF would prefer to make the amendments before or after the bill is sent to the Senate.

348

Gibson

Replies that the Senate committee that considers the bill can include the amendments.

352

Rep. Brown

Requests confirmation that fire districts assume liability for the area they are pledged to protect when they leave that area to fight a fire on unprotected lands.

360

Gibson

Answers that is the case.

366

Rep. Hill

Wonders what problem the bill addresses. Inquires whether the law currently prohibits fire districts from fighting fires on unprotected lands.

380

Rep. Tomei

Asks why some of the developed areas are unprotected.

386

Gibson

Explains that local residents sometimes decide not to assume the tax burden necessary for supporting a rural fire district.

393

Chair Krummel

Concludes that ODF can be called in to fight a grass fire on unprotected property but not to fight a structural fire.

402

Gibson

Replies that is the case.

**TAPE 23, B**

001

Rep. Smith

Inquires whether Dodson is unprotected.

008

Gibson

Replies affirmatively.

013

Rep. Tomei

Wonders why areas that choose to not have fire protection should be protected anyway.

018

Rep. Smith

Asserts that those making such a choice do not expect fire protection.

020

Rep. Tomei

Comments that they should not get protection.

024

Rep. Garrard

Indicates that in many rural areas the cost of fire protection is higher than the cost of fire insurance, which dissuades many from requesting protection.

036

Ken Armstrong

OFCA. Testifies in support of HB 2720 (**EXHIBIT C**). Refers to a case that occurred in Ashland. Says there are administrative rules for the Fire Marshal that clarify what ‘unprotected’ means, but the arbitrator in the Ashland case ruled that the property in question was, in fact, protected and that costs could therefore not be recouped.

066

Keith Woodley

Ashland Fire and Rescue (AF&R). Testifies in support of HB 2720. Asserts that all buildings and property in Oregon should

		receive protection, but acknowledges that is not the case. States that the role of the fire fighter is to respond to emergencies and help people. Says the question is whether and how to respond to unprotected areas. Describes the Ashland fire, which threatened the city's water supply when it moved into the Ashland watershed. Explains that the cost was billed according to the state's schedule but the property owner refused payment.
110	Woodley	States that the issue is cost recovery, not fire protection, as his people would go to the ends of the earth to fight fires and help people. Recognizes that some areas are so remote that fire protection cannot be provided. Indicates that the property in the Ashland case was only a few hundred feet from protected lands. Says that fire protection is needed in many cases because fires on unprotected lands immediately threaten protected lands. Requests that an amendment be drafted.
127	Rep. Hill	Requests confirmation that the Ashland instance would be covered under Section 2 of the bill. Asks about the ramifications of the language in that section.
133	Armstrong	Indicates that Legislative Counsel (LC) included the language in question in order to incorporate the measure into statute.
141	Rep. March	Asks whether the parties are close to completing the amendments.
149	Armstrong	Replies that discussion has just begun on the amendments. Reiterates the desire to send the measure to the Senate before the amendments are included. Clarifies that the amendments do not alter the purpose of the bill.
163	Rep. Tomei	Concludes that the Ashland property was under ODF protection, but that the structures were not. Assumes the owner of the structures would have preferred that the buildings had been left alone to burn.
173	Woodley	Remarks that ODF is not always capable of fighting structural fires. Says that in the Ashland case, ODF could not suppress the fire. Mentions that the fire also occurred during the off-season, when ODF was not at full staff.
185	Rep. Tomei	Requests confirmation that the fire district was under no legal obligation to protect the structure since it was on unprotected land.
187	Woodley	Replies affirmatively, as there was no immediate danger to human life and limited risk of the fire spreading to wildlife areas.
194	Rep. Garrard	Offers a hypothetical example of someone who refuses to annex into a fire district. Wonders how much a landowner could be charged if a fire was put down there.
199	Woodley	Responds that the bill in the Ashland case the bill was about \$1,500. Mentions that the landowner had misrepresented his property to the insurance company, and later annexed when it became clear that the insurance bill would be higher than the cost of fire protection.
215	Rep. Garrard	Requests confirmation that the property owner made the decision not to annex, as opposed to the insurance company.
217	Woodley	Replies affirmatively.
218	Chair Krummel	Presumes that the insurance company could have paid the bill.
222	Rep. Smith	Wonders whether annexation is allowed for single parcels of land.
225	Woodley	Explains that a parcel must be contiguous with a fire district in

		order to be annexed.
228	Rep. Smith	Inquires as to the cost of annexation.
230	Woodley	Replies that he does not have that information.
235	Rep. Wirth	Asks whether the bill could be characterized as an expansion of the definition of “unprotected area.”
240	Woodley	Replies affirmatively, adding that the definition should be expanded to include lands that do not receive structural fire protection. Notes that ODF protects the land but does not address structural fires.
253	Rep. Wirth	Wonders whether passage of the bill will open fire protection units to greater liability in that districts could be forced to respond selectively.
262	Woodley	Replies that legal counsel suggested that a policy be prepared to give fire chiefs discretion as to how and when to respond. Says that under that policy liability is minimal.
274	Rep. Wirth	Asks whether Mr. Woodley is sure that expanding response areas will not increase liability.
281	Woodley	Answers that liability is dependent on a number of factors.
286	Armstrong	Indicates that statute requires cost recovery to be based upon an established policy for responding to fires.
296	Rep. Hill	Inquires whether the bill includes a provision for collecting fees. Ponders whether AF&R should have billed ODF for protecting grasslands from the structural fire.
306	Woodley	Explains that there are mutual aid agreements between several government entities, including ODF, which allows for assistance without compensation.
315	Rep. Hill	Asks why AF&R sought to recoup costs in the Ashland instance if that is the case.
320	Woodley	Clarifies that the billing was not for grassland protection, but instead for the response to the structural fire.
325	Rep. Hill	Recalls that the reason given for responding to the structural fire was to protect the surrounding grassland. Says if that was the case then AF&R should have billed ODF instead of the landowner.
336	Armstrong	States that each department involved is permitted to recoup costs from landowners.
340	Woodley	Mentions that his was the only entity in the response are outfitted to combat structural fires.
348	Rep. Hill	Recaps the specifics of the Ashland case.
358	Woodley	Explains that the thermal column from the structural fire endangered much of the surrounding landscape.
365	Rep. Hill	Asks why AF&R sought compensation from the landowner if the real reason they responded was to protect lands for which ODF is responsible.
368	Woodley	Indicates that AF&R is entitled to do so in cases involving unprotected lands.
374	Armstrong	Asserts that fire districts should have the opportunity to recoup the cost of responding to a potentially dangerous fire.
397	Rep. Smith	Asks whether the arbitrator in the Ashland case decided for the property owner.
400	Woodley	Explains that the arbitrator’s decision hinged on the determination that the property in question was unprotected. Explains that HB 2720 would include structural fire protection in that definition.

**TAPE 24, B**

018	Rep. March	Asks how difficult it would be to work out a compromise before the bill is sent to the House floor for consideration. Suggests it would be preferable to deal with these issues before sending it to the Senate.
024	Armstrong	Indicates he is amenable to doing that. Remarks that the legislative schedule becomes crowded as the session progresses. Acknowledges the possibility that there may not be an amendment put forth. Offers to resolve the issue prior to sending it along.
037	Chair Krummel	Says the Ashland case revolves around a property owner who received a benefit for which he did not pay. Asks whether the desired amendments are to add language related to the bill, or are simply something that fits in the relating-to clause.
051	Gibson	Indicates that HB 2720 is the only bill in the process that opens up that particular portion of statute. Says the amendment may help firm up the position of the firefighters.
060	Chair Krummel	Closes the public hearing and opens a work session on HB 2720.
<b><u>HB 2720 WORK SESSION</u></b>		
069	Rep. Hill	Requests that the bill be set aside until the parties have prepared amendments for the committee's consideration.
080	Chair Krummel	Asks that the parties commence work on amendments and bring them before the committee once they are ready. Closes the work session on HB 2720 and opens a public hearing on HB 2721.
<b><u>HB 2721 PUBLIC HEARING</u></b>		
088	Matt Wingard	Committee Administrator. Gives a brief description of the bill. States the bill allows fire departments to transfer fire protection equipment to other fire departments without competitive bidding, limiting the recipient from receiving more than \$50,000 in equipment per year.
096	Burton Weast	OFDDA. Testifies in support of HB 2721. States that the bill places in statute a practice that has been going on informally for some time. States that passing on out-of-date fire equipment from districts that can afford new equipment to those that cannot, or from large departments to small volunteer fire departments, provides a great benefit to the smaller districts. Indicates that a program already exists to facilitate this transfer process. Explains that the bill is being brought forth because of recent questions regarding the legality of the practice.
142	Weast	Reviews the limitations and requirements that will govern the transfer of equipment, including the requirement that it be done in the light of public scrutiny. Acknowledges concerns about the constitutionality of subsidizing one tax district through transfers from another. Mentions that the -1 amendments ( <b>EXHIBIT D</b> ) address a technical problem within the bill.
172	Ron Teegan	Stayton Fire District. Testifies in support of HB 2721. Relates his 30 years of experience as a fire fighter in Stayton, including the dispensation of fire equipment that is no longer used by the district. States that the Detroit Fire District was in need of a new fire engine, so when Stayton procured a new one, they wanted to transfer the old engine to the Detroit Fire District. Acknowledges that statute requires a competitive bidding process.
205	Ed Wilson	Portland Fire Bureau. Testifies in support of HB 2721. Assures



his district will not benefit from the bill, but rather will likely be a source of much of the donated materials. Describes the cost of new equipment. Says that Portland would be willing to help outfit rural districts with its old equipment as it is phased out of use.

229 Rep. Garrard Wonders whether it is in the best interest of the people to bypass the competitive bid process.

233 Weast Responds that Rep. Garrard's concern is the reason that the public hearings process and value cap was included in the bill. Remarks that fire districts are often called to large fire in remote areas and therefore have a vested interest in helping to outfit rural fire districts. Explains that large conflagrations can require massing of firefighters from throughout the state into a single area.

264 Rep. Tomei Asks how the decision is made as to where to send surplus equipment.

268 Weast Replies that there are a few methods for doing so, though it usually involves communication between departments through either representatives or through trade publications. Says that in some cases a large district recognizes needs in small neighboring districts.

310 Lawrence Tucker Scio Fire Department. Testifies in support of HB 2721. Indicates that his district went through bidding process with the Gresham Fire Department for the purchase of a surplus ladder truck for \$5,000. Says Gresham indicated it would have been willing to part with the truck for much less, as is often the case in such bidding processes.

360 Tucker Lists several other pieces of equipment and the maintenance records that fire districts require and could be transferred should the bill become law. Explains that an elected board determines whether to auction or give away the equipment.

388 Chair Krummel Closes the public hearing and opens a work session on HB 2721.

**HB 2721 WORK SESSION**

391 Rep. Tomei **MOTION: Moves to ADOPT HB 2721-1 amendments dated 2/26/01.**

398 **VOTE: 9-0-2**

**EXCUSED: 2 - Beck, Hill**

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

400 Rep. Smith **MOTION: Moves HB 2721 to the floor with a DO PASS AS AMENDED recommendation.**

404 Rep. Garrard Indicates he will not support the motion, as other agencies could seek similar exemptions in the future should the legislature create a precedent by offering on in this instance.

422 Rep. Kruse Responds that in this case the exemption is merited and that each future instance will likewise be decided on its merits.

429 Rep. March Concurs and expresses support for the measure.

435 **VOTE: 8-1-2**

**AYE: 8 - Brown, Kafoury, Kruse, March, Smith P, Tomei,**

**Wirth, Krummel**

**NAY: 1 - Garrard**

**EXCUSED: 2 - Beck, Hill**

**Chair Krummel**

**The motion CARRIES.**

450

Chair Krummel

**KRUSE will lead discussion on the floor.**

Closes the work session on HB 2721 and adjourns the meeting at 10:25 a.m.

Submitted By,

Reviewed By,

Patrick Brennan,  
Committee Assistant

Matt Wingard,  
Committee Administrator

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**EXHIBIT SUMMARY**

**A – HB 2719, testimony, Ken Armstrong, 2 pp.**

**B – HB 2720, testimony, Richard Gibson, 2 pp.**

**C – HB 2720, testimony, Ken Armstrong, 1 p.**

**D – HB 2721, – 1 amendments, staff, 1 p.**