

# HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

February 21, 2001  
3:30 PM

Hearing Room 50  
Tapes 39-42

**MEMBERS PRESENT:** Rep. Bill Witt, Chair  
Rep. Betsy Johnson, Vice-Chair  
Rep. Tim Knopp, Vice-Chair  
Rep. Alan Bates  
Rep. Alan Brown  
Rep. Janet Carlson  
Rep. Richard Devlin  
Rep. Bill Garrard  
Rep. Jerry Krummel  
Rep. Laurie Monnes-Anderson  
Rep. Vicki Walker

**STAFF PRESENT:** Daniel Clem, Committee Administrator  
Renee' Lunsford, Committee Assistant

**MEASURE/ISSUES HEARD:** HB 2680 Work Session  
HB 2210 Public Hearing  
HB 2617 Public Hearing  
HB 2624 Public Hearing

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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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TAPE/#	Speaker	Comments
<b>TAPE 39, A</b>		
010	Chair Witt	Calls meeting to order at 3:30 p.m. and opens a work session on HB 2680.
<b><u>HB 2680 WORK SESSION</u></b>		
015	Dan Clem	Committee Administrator. Reads preliminary staff summary on the HB 2680-1 amendment. References fiscal impact and states it is indeterminate.
020	Chair Witt	<b>MOTION: Moves to ADOPT HB 2680-1 amendments dated //01.</b>
031	Rep. Monnes-Anderson	States that she objects to the -1 amendments on HB 2680.
	Chair Witt	<b>VOTE: 10-1</b> <b>Noting Rep. Monnes-Anderson's objection, declares the motion CARRIED.</b>
042	Rep. Knopp	<b>MOTION: Moves HB 2680 to the floor with a DO PASS AS AMENDED recommendation.</b>
050	Rep. Bates	States he will vote in opposition to this bill because he is concerned about repercussions to small communities. Gives additional reasons why.
058	Rep. Garrard	States he will support this bill because he cannot see where this bill hinders the ability of local government.
066	Rep. Walker	States she will vote in opposition of this bill because is not necessary. Gives various reasons why she feels this is so.

075	Rep. Monnes-Anderson	States she will vote in opposition to this bill because it will have a significant fiscal impact on the City of Gresham. Gives additional reasons.
105	Rep. Krummel	States he will support this bill and why.
134	Rep. Carlson	States the concerns she expressed with this bill have been satisfied with the –1 amendments. Gives examples.
170	Rep. Walker	States there were 35 witnesses signed up to testify in opposition to the bill when it was heard on February 12, 2001. She would like to know how many of them support these amendments.
173	Chair Witt	States they need to be communicating with members.
175	Rep. Brown	States because the Central Lincoln PUD is in his district and they have expressed real concern how this bill will affect them and their economic projects, he will vote no on this bill.
180	Rep. Monnes-Anderson	States this bill is a disadvantage to the rural areas that are trying to help themselves cross the digital divide. She references Coos Bay.
242	Chair Witt	States he will support this bill as being fair for Oregonians and particularly for those operating within the private sector. States there is no prohibitions in this bill.
266	Rep. Walker	Points out section 3, page 2 of the fiscal analysis prohibits schools, universities and libraries from absorbing indirect costs of internet access to students and citizens.
270	Chair Witt	States the best way to ensure lower prices is to provide a competitive marketplace.
290	Rep. Carlson	States the version of the fiscal statement provided relates to the original bill, not on the amendment.
296	Rep. Bates	States the confusion surrounding the bill and the –1 amendments, should make us pause and look at the bill more closely and in depth.
308	Rep. Walker	States she would like to voice her objections to voting on a bill without the updated fiscal analysis.

**VOTE: 6-4**

**AYE: 6 – Carlson, Devlin, Garrard, Knopp, Krummel, Witt**

**NAY: 4 - Bates, Brown, Monnes Anderson, Walker**

**EXCUSED: 1 - Johnson**

**345 Chair Witt**

**The motion CARRIES.**

**346 Chair Witt**

**Rep. Devlin will lead discussion on the floor.**

Closes the work session on HB 2680 and opens a public hearing on HB 2210.

**HB 2210 PUBLIC HEARING**

350 Clem

Reads preliminary staff summary on HB 2210.

407 Robert Roth

Assistant Attorney General, Financial Fraud/Consumer Protection, Department of Justice, Civil Enforcement Division. Submits written testimony (**EXHIBIT A**) and testifies in support of HB 2210. States that the intention of amendments is to expand the definition of the application of the statute so that they go along with the FTC cooling off rule. Explains what would happen if seller does not comply.

435 Rep. Krummel

Gives example of real estate agent and potential buyer. Asks would the definition that is given on the first page, lines 12 through 20 apply to this situation.

459 Roth

Responds negatively. Refers to page 2 of the bill.

468	Rep. Carlson	Asks if home-solicitation sales would include time-share sales.
482	Roth	States he is not sure. States there are some transactions HB 2210 does not apply to.
<b>TAPE 40, A</b>		
021	Chair Witt	Asks if the seller's place of business would be exempted from this act.
025	Roth	Responds affirmatively.
031	Chair Witt	Poses a hypothetical situation using a door-to-door vacuum cleaner sale. Asks if the buyer damages the vacuum cleaner in the three-day time limit, what protects the seller.
046	Roth	States the amendments don't address that issue.
056	Chair Witt	States that this is something the committee may want to consider.
070	Roth	Consults the FTC rule. States the buyer cannot cancel, if the goods are not in the same condition.
104	Chair Witt	Expresses concern that the buyer is in possession of the property for three days, could damage the product, and the seller would not have any reasonable protection.
116	Rep. Bates	States that the bill was set up to protect consumers from high-pressure home sales. Notes that they could consider adding language that would cover this other situation. Comments on his experience in consumer business.
128	Rep. Krummel	States he has some confusion with the language in the bill. Asks for clarification.
140	Roth	Explains that this does not apply simply to door-to-door sales.
152	Rep. Walker	Asks what constitutes delivery.
161	Roth	Responds there is a limitation in the FTC rule.
201	Chair Witt	Asks if custom-made products are excluded in the bill.
208	Roth	Replies he doesn't believe so.
225	Chair Witt	Asks if the bill applies to three days from the time you delivered the product or three days from the time the contract was entered into.
230	Roth	Responds it is three days from the time the contract was entered into.
240	Rep. Walker	Asks if this is the only place there is a three day right of rescission on a sale.
250	Roth	Says in health spas there may be a specific three-day cancellation right.
252	Rep. Garrard	Asks if the FTC's cooling-off rule preempts the state regulation.
255	Roth	States to the extent that the state regulation provides less protection than the rule.
257	Rep. Garrard	Asks if, from a consumer's standpoint, they are better off with the FTC's law.
258	Roth	Responds that the Oregon statute allows the state to enforce it themselves and the FTC doesn't have any such provision.
300	Chair Witt	Suggests they look at approaching the bill more broadly so consumers will know what their rights and obligations are.
305	Cheryl Pellegrini	Department of Justice. Requests clarification of suggestions.
307	Chair Witt	Lists some specific issues he would like to see addressed.
321	Chair Witt	Closes the work session on HB 2210 and opens a public hearing on HB 2617.

**HB 2617 PUBLIC HEARING**

328	Rep. Dan Gardner	House District 13. Submits written testimony ( <b>EXHIBIT B</b> ) and testifies in support of HB 2617b
376	Bob Shiprack	Executive Secretary, Oregon Building and Construction Trades

		Council. Testifies in support of HB 2617. Suggests amendments to the bill.
445	Rep. Knopp	Says it appears as if this may be a one-strike-and-you're-out deal. States additional concerns.
<b>TAPE 39, B</b>		
073	Rep. Bates	Asks if a school district, for example, discovers the contractor they hired is in violation, is it their responsibility to bring another contractor in.
075	Shiprack	Notes that once it's started, it's a little late. Responds that prior to awarding the contract, if evidence were brought forward that they had a history of major violations, it would allow the public agency to not use their bid.
073	Rep. Bates	States it would be much more effective for an agency to go to a contracting board and request a list of people who have a clean record.
083	Chair Witt	States he has some concerns about the language.
090	Shiprack	States the language up to line 25 was SB 271 from last session. Notes that it has been amended with clearer language.
109	Rep. Monnes-Anderson	Refers to page 2, states the "may" on line two could be changed.
117	Shawn Miller	Testifies in opposition of HB 2617. Agrees with Rep. Knopp that the definition of a history is too narrow.
153	Rep. Walker	Asks what if there is a history of repeated violations.
160	Miller	Responds repeatedly means two or more.
163	Chair Witt	Adds that the degree of the violation ought to be considered as well. Asks Mr. Miller what he thinks of giving the Construction Contractor's Board authority to deal with these issues.
170	Miller	States they have had their own problems dealing with enforcement and that would give them a whole new area of authority.
190	Chair Witt	Suggests tightening up the language and allocating authority to professionals in the field.
200	Rep. Walker	States the Construction Contractor's Board has testified in the House Business, Labor, and Consumer Affairs committee that they don't want any more work, however she feels it would be worthwhile asking them.
216	Rep. Bates	States he agrees with Chair Witt that it would be beneficial to have a professional agency to reference when making these decisions.
219	Jessica Harris	Associated General Contractors (AGC). Submits written testimony ( <b>EXHIBIT C</b> ) and testifies in opposition to HB 2617.
273	Rep. Devlin	Asks if there is a way minor violations could be relegated to objective criteria.
285	Harris	Responds it is possible. Gives example.
312	Rep. Krummel	Asks if they overpay their laborers, is that still a problem.
326	Harris	Responds they could be in violation of someone not accurately tracking hours, however there probably wouldn't be anyone challenging the contractor because the worker was paid too much.
340	Rep. Krummel	States the language is permissive and that the burden-of-proof is already on the contracting agency to prove that there has been a violation. Asks Ms. Harris if this changes her thoughts on the bill.
355	Harris	Responds it does not.

383	Mark Nelson	Oregon Metals Industry Council. Testifies in opposition to HB 2617.
478	Chair Witt	Suggests including a hearing process and setting standards for disqualification, which would have to show a repeated or on-going violation of various legal requirements.
<b>TAPE 40, B</b>		
048	Nelson	States that this is a two-edged sword.
059	Chair Witt	States he thinks the intent of the bill is good, however they may want to take a somewhat different approach.
066	Rep. Garrard	States as a county commissioner in Klamath County he was involved in constructing public buildings and that if this proposed bill had been the law when they went through the bid process, he doubts if they would have found a contractor.
074	Chair Witt	Closes the public hearing on HB 2617 and opens a public hearing on HB 2624.

**HB 2624 PUBLIC HEARING**

077	Clem	Reads preliminary staff summary on HB 2624.
080	Shiprack	Submits written material ( <b>EXHIBIT D</b> ) and testifies in favor of HB 2624.
200	Chair Witt	Asks Mr. Shiprack what was the reason for the state Davis Bacon 90-day requirement. Asks if this information was entered more frequently would the violations be spotted more quickly.
205	Shiprack	Responds he doesn't know the reason. Responds that violations could be spotted more quickly.
216	Jeff Carlson	Business Representative for Ironworkers Local 29. Submits written testimony ( <b>EXHIBIT E</b> ) and testifies in favor of HB 2624.
367	Jennifer Hudson	Representative for the Plumbing and Mechanical Contractors Association, the National Electrical Contractors Association, and the Sheet Metal and Air Conditioning National Contractors Association. Testifies in favor of HB 2624.
370	Rep. Krummel	Asks why an employee would work for a lower wage.
408	Carlson	Responds they fear losing employment.
421	Rep. Krummel	Asks why not stiffen the existing penalties.
430	Shiprack	Responds the problem is if they get caught, they just have to pay back what they should have paid in the first place.
454	Chair Witt	Asks if it goes past 90 days from the time the problem occurs, is there less likelihood that you will get the money from the contractors.
457	Shiprack	Responds probably not. Notes that there is a 120-day statute of limitations in which to file.
464	Rep. Krummel	Suggests making it more costly if they're going to violate the statutes.
481	Rep. Knopp	Asks if there is a set time limit in which employers have to pay wages.

**TAPE 41, A**

042	Rep. Garrard	Suggests to Mr. Carlson that employees sign a form agreeing to their position before each project begins.
050	Carlson	States they will all sign the paper or they will lose their job. Gives two examples of why stiffer penalties alone won't work.
082	Rep Devlin	States he has experience with trade unions and understands the need for the weekly report. Asks if they need the weekly reports to prove that the work being done is done under the correct classification.

104	Carlson	States that is correct. Outlines what information they receive from dodge reports.
108	Janet Whitfield	Bureau of Labor and Industries (BOLI). Testifies in favor of HB 2624.
127	Rep. Krummel	Refers to the form in Mr. Carlson's testimony. Asks if it is a federal or state form and if they are the same.
136	Christine Hammond	Administrator of the Wage and Hour Division, Bureau of Labor and Industries. Responds it is a state form, but it is modeled after the federal form.
144	Rep. Krummel	States that if the forms were the same there may not be any concerns with the bill.
146	Hammond	Comments that contractors are not required to use this form.
151	Rep. Krummel	Asks if the federal agencies are the same way or do they require their particular form to be used.
156	Hammond	Responds she believes they are the same way.
157	Rep. Garrard	Asks if the problem is not reporting often enough or not reporting accurately.
160	Hammond	Responds if they don't have to submit a certified payroll until the first payment is made from the contracting agency to a contractor, sometimes the payroll isn't filed until weeks into the project.
163	Rep. Garrard	States they are going from 90 days to 7 days. Asks if this is what BOLI would like to have.
171	Hammond	Responds that BOLI doesn't see what they pay for the first 90 days, they only see what they pay for in a one-week period of time.
178	Shawn Miller	Representing Associated Building and Contractors and the Independent Electrical Contractors of Oregon. Testifies in opposition to HB 2624.
260	Chair Witt	Asks if federal law requires a weekly payroll report.
287	Miller	Responds affirmatively.
290	Chair Witt	Asks if it has substantially the same information, including the address of the employee.
295	Miller	Responds he hasn't seen it for a while.
298	Chair Witt	Asks if this form is being used to organize non-union workers.
300	Miller	States while working on most of the big projects, there is some form of organizing going on.
303	Rep. Devlin	Notes this is a two-sided issue and we're not conducting a hearing on collective bargaining issues.
319	Harris	Submits written testimony ( <b>EXHIBIT F</b> ) and testifies in opposition to HB 2624.
377	Rep. Walker	States she heard the same argument in the House Transportation committee when they were talking about the weight-mile tax.
382	Harris	Responds she was not aware of that.
399	Rep. Walker	States there was some discrepancy between testimonies. Asks when current requirements were enacted.
402	Harris	Responds the 90-day law was enacted in 1959.
434	Rep. Devlin	States the issues seems to be about reports being filed, not about information being available.
447	Harris	Notes this is true, but smaller employers are still using a ledger and a pencil, not all of them have sophisticated computers and this is a problem for them.
470	Chair Witt	States proponents of this bill testified the recording requirement and paper work is minor. Asks if that is a fair characterization.

477	Harris	Responds that for large contractors with sophisticated accounting systems this is probably true, but for small contractors this will be an issue and a cost.
<b>TAPE 42, A</b> 046	Chair Witt	Closes the public hearing on HB 2624 and adjourns the meeting at 5:55 p.m.

Submitted By,

Reviewed By,

Renee' Lunsford,  
Committee Assistant

Daniel Clem,  
Committee Administrator

**EXHIBIT SUMMARY**

- A – HB 2210, written testimony, Robert Roth, 1 p**
- B – HB 2617 written testimony, Rep. Dan Gardner, 1 p**
- C – HB 2617, written testimony, Jessica Harris, 2 pp.**
- D – HB 2624, written material, Bob Shiprack, 1 p**
- E – HB 2624, written testimony, Jeff Carlson, 4 pp.**
- F – HB 2624, written testimony, Jessica Harris, 1 p**