

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

April 2, 2001
3:15 PM

Hearing Room 50
Tapes 89 – 93

MEMBERS PRESENT: Rep. Bill Witt, Chair
Rep. Betsy Johnson, 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

MEMBER EXCUSED: Rep. Tim Knopp, Vice-Chair

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

MEASURE/ISSUES HEARD: HB 2617 Work Session
HB 2624 Work Session
HB 2052 Work Session
HB 3633 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 #88 not used) | | |
| TAPE 89, A | | |
| 005 | Chair Witt | Calls the committee to order at 3:35 p.m. Opens a work session on HB 2617. |
| <u>HB 2617 WORK SESSION</u> | | |
| 060 | Dan Clem | Committee Administrator. Reads staff preliminary summary and submits the proposed –4 amendments. States that the –4 amendments allow a public contracting agency to petition to the Construction Contractors Board (CCB) for assistance in any disqualification proceeding. Notes that the amendments have no revenue or fiscal impact. |
| 082 | Rep. Monnes-Anderson | Asks who requested the –4 amendments. |
| 087 | Chair Witt | Asks if there are any witnesses responding to the –4 amendments. |
| 090 | Jeff Carlson | Ironworkers' Local 29. States that Chair Witt and members of the Ironworkers' Local 29 developed the –4 amendments. |
| 100 | Rep. Monnes-Anderson | Refers to subsection 2, line 18 of the –4 amendments and asks why the word "may" was chosen instead of "shall," in cases where egregious actions have been committed. |
| 104 | Carlson | Responds that the usage of the word "shall" was considered too severe. |
| 109 | Rep. Monnes-Anderson | Asks if there are any circumstances where one would want to hire someone under public contract if they have been convicted |

| | | |
|------------------------------------|-------------|---|
| 113 | Carlson | of an offense or do not carry worker's compensation insurance. Replies that employment under such circumstances is not sought after, but is sometimes unavoidable due to bad information. |
| 117 | Chair Witt | Asks if there is any justification for using the "may" instead. |
| 124 | Rep. Devlin | Answers affirmatively, as there are reasons to allow for latitude in interpreting the law. |
| 129 | Rep. Witt | Comments that the word "may" seems to allow for mitigating circumstances. States that there is a statutory appeal process. |
| 137 | Dugan Petty | Department of Administrative Services (DAS). Provides background information . States that this section came out of the model American Bar Association Procurement Code and that the wording "may " gives the public contracting agency the discretion to disqualify someone without the potential for future litigation. |
| 157 | Rep. Devlin | MOTION: Moves to ADOPT HB 2617-4 amendments dated 3/28/01. |
| 159 | | VOTE: 10-0-1 |
| | | EXCUSED: 1 - Knopp |
| | Chair Witt | Hearing no objection, declares the motion CARRIED. |
| 167 | Rep. Devlin | MOTION: Moves HB 2617 to the floor with a DO PASS AS AMENDED recommendation. |
| 170 | | VOTE: 10-0-1 |
| | | AYE: In a roll call vote, all members present vote Aye. |
| | | EXCUSED: 1 - Knopp |
| | Chair Witt | The motion CARRIES. |
| | | REP. BROWN will lead discussion on the floor. |
| 177 | Chair Witt | Closes the work session on HB 2617 and opens a work session on HB 2624. |
| <u>HB 2624 WORK SESSION</u> | | |
| 180 | Dan Clem | Committee Administrator. Reads the staff preliminary summary and explains the proposed -2 amendments, which replace the weekly submission requirement with a monthly requirement. Indicates that the measure is estimated to have no revenue or fiscal impact. |
| 190 | Rep. Bates | Asks whether the amendments are a compromise on the previous timing requirements. |
| 195 | Chair Witt | Answers that is correct. Clarifies that the compromise is to provide weekly wage information once a month. |
| 203 | Rep. Walker | Asks if all parties have agreed to these amendments. |
| 204 | Chair Witt | Answer he is aware of no objections to the -2 amendments. |
| 208 | Rep. Bates | MOTION: Moves to ADOPT HB 2624-2 amendments dated 4/2/01. |
| 209 | | VOTE: 10-0-1 |
| | | EXCUSED: 1 - Knopp |
| | Chair Witt | Hearing no objection, declares the motion CARRIED. |
| 211 | Rep. Bates | MOTION: Moves HB 2623 to the floor with a DO PASS AS AMENDED recommendation. |
| 213 | | VOTE: 10-0 |
| | | AYE: In a roll call vote, all members present vote Aye. |
| | | EXCUSED: 1 - Knopp |
| | Chair Witt | The motion CARRIES. |

REP. BATES will lead discussion on the floor.

215 Chair Witt Closes the work session on HB 2624 and opens a work session on HB 2052.

HB 2052 WORK SESSION

233 Jessica Harris Associated General Contractors (AGC). Testifies in support of the -11 amendments to HB 2052. States that the amendments make technical changes to make the law work. States that the -9 amendments were the building trades amendments and that there are no changes from the -9 amendments to the -11 amendments in terms of which trades are covered. States that technical changes include language modification and that this clarifies Oregon Revised Statute language.

314 Rep. Krummel Refers to -11 amendments, page 4 and asks for clarification on the meaning of lines 29-31.

320 Harris Answers that this refers to clarification of listing add-ons of base bid price.

342 Rep. Krummel Asks what is involved in site preparation.

349 Harris Responds that site preparation can be a number of things.

355 Edward Glad Pacific Northwest Regional Council of Carpenters. Clarifies different aspects of site preparation.

360 Rep. Krummel Refers to page 7, lines 15 through 17 and asks if this would be irrespective of the four-hour rule.

365 Harris States that the language gives the Oregon Department of Transportation (ODOT) and any other public contracting agency the choice of when to open bids in relation to the four-hour rule.

376 Chair Witt Asks if statutory law does not currently state when the bid must be opened.

387 Harris Responds that this is correct.

390 Rep. Johnson Asks for clarification of phrases "single sub".

397 Harris Explains that least-cost policy is asking for recognition of subcontractor's right to appeal substitution of bid.

442 Rep. Johnson Asks if this states that the general contractor does not have the ability to reject the subcontractor.

454 Harris Responds that under the -12 amendments, subcontractors cannot be rejected without potential penalty. States that subcontractors have an opportunity to file a claim and that the burden of proof can be used to show the bid was not appropriate.

TAPE 90, A

010 Rep. Johnson Asks how often does it now occur that there is a single non-responsive subcontractor.

017 Harris Responds that there are no specific numbers but that this occurrence happens once out of ten -twenty bids and that it does come out of tax payer dollars.

020 Rep. Johnson Asks how often is there a single respondent with an excessively high bid and that bid cannot be rejected.

027 Harris Answers that the -12 amendments do not protect a contractor from rejecting an excessively high bid from a subcontractor.

031 Chair Witt Asks how allowing a rejection of a subcontractor's bid, based upon cost, protects the public.

034 Gary Conklin AGC. States that if the general contractor receives an estimate that he believes is excessive or not responsive but it is the only quote received, the defense can be used that the quote was believed to be excessive. States that it is a modest way to make a defense in relatively rare occurrences.

| | | |
|-----|--------------|---|
| 064 | Chair Witt | Asks how this flexibility contributes to keeping the cost down. |
| 067 | Conklin | Replies that if the bid was believed to be excessive and a subcontractor could be found to do the work for the price considered fair, then the taxpayers would be the beneficiary. |
| 087 | Rep. Carlson | Asks what would be the objection to expanding the scope. |
| 093 | Harris | Responds that this clarifies subcontractor listing protocol and guidelines, as well as penalties. |
| 136 | Rep. Carlson | Asks if the impact has been considered. |
| 140 | Conklin | Responds that manageability needs to be found. |
| 160 | Rep. Carlson | Asks about discrepancies in stated amounts. |
| 165 | Harris | Responds that the number was originally set in the 1995 Legislative Session. Talks about the five-percent threshold issue as it relates to large projects. |
| 188 | Rep. Carlson | Refers to page 5, line 28 and asks the significance of the wording "completed and". |
| 198 | Harris | Responds that the bid is disqualified as being non-responsive if there is an error of any kind. |
| 212 | Conklin | Contributes that contractors' share an interest in not allowing a clerical error to disqualify the bid. States that clerical errors do happen, and this wording alleviates winning bids being disqualified. |
| 228 | Rep. Carlson | Asks if there is substantive difference in language between -11 and -12 amendments, referencing page 9 section 5, line 6. |
| 235 | Harris | Responds that the idea is to again clarify, in those two sections, that a subcontractor has a right to file a complaint with CCB against a general contractor but under conditions specifically detailed. |
| 240 | Rep. Devlin | References page 4, sections 4 and 7, and asks if there are reasons for differences in describing the same items. |
| 245 | Harris | Responds that language was taken from the -9 amendments. |
| 250 | Rep. Devlin | Asks if items are sometimes done in different trades, as referred on page 4 of the -12 amendments. |
| 255 | Harris | Responds that structural steel was the issue. |
| 270 | Rep. Devlin | References -12 amendments, section 11 and asks if it could be ninety percent in some cases. |
| 280 | Harris | Responds that highway work kinds of bids require that the general contractor is required to do more than fifty or sixty percent of the bid. |
| 287 | Rep. Krummel | Asks if page 4, line 5 and page 4, line 30 of the -12 amendments refer to the same thing. |
| 293 | Harris | Responds that concrete and asphalt are included separately, despite their similarity. |
| 306 | Rep. Garrard | Notifies that the -12 amendments include trades that -11 amendments do not. Asks if the liability increases the probability of those that are mentioned in the -11 amendments. |
| 337 | Harris | Responds that if one were to look at -8, -9, and -10 amendments, that those could be considered second-tier subcontractors. |
| 352 | Rep. Garrard | Asks if the individual trades would be eliminated if the tier were raised high enough. |
| 367 | Harris | Answers that the original list was designed to pick up those trades that are listed most often. |
| 383 | Rep. Bates | Asks, if the agency could be removed from the equation by spreading it out to as many trades as possible and lowering it to \$250,000. |

| | | |
|-------------------|--------------|---|
| 409 | Conklin | Answers affirmatively. |
| 422 | Brian Kreig | Oregon State Building Trades Council, Plumbing and Mechanical Association, National Electrical Contractors' Association, Sheetmetal Contractors' Association and affiliated unions. Testifies in support of the –12 amendments to HB 2052. States that –12 amendments attempt to reduce bid shopping and help to protect small businesses throughout Oregon. States that the –12 amendments provide an enforcement process and penalties, clean up language, and provide standardized forms for government agencies to use. Discusses due cause substitution, referring to Rep. Johnson's questions regarding a single or non-responsive bid. Refers to page 8, lines 30 and 31 language and says the CCB will make some definitions through administrative rule as to what is good cause for substitution. |
| TAPE 89, B | | |
| 057 | Tom Lindberg | Operating Engineers, Local 701. Testifies in support of the –12 amendments to HB 2052. States that both sides agree that a bid shopping bill, as passed in the last session, was necessary but that this bill needs to be refined. Clarifies that this issue involves small businesses. States that one of the changes in the –9 amendments included the asphalt and paving groups, and that those changes were not included in the –12 amendments. Requests that the committee address this omission. |
| 086 | Rep. Johnson | Asks Mr. Lindberg if he is satisfied that the provision in amendments related to CCB's "good cause" rules will protect the public from higher prices on public projects. |
| 092 | Lindberg | Answers he believes so. |
| 102 | Rep. Bates | Asks Mr. Lindberg if the –12 amendments will protect the public agency better than the –11 amendments. |
| 103 | Krieg | Replies affirmatively. |
| 104 | Lindberg | Answers yes. |
| 106 | Rep. Carlson | Refers to page 4, line 14 of –12 amendments, specifically the phrase "including but not limited to". Asks why the phrase is necessary. |
| 111 | Kreig | Responds that under current law all trades that are listed were covered by the 1999 legislation. |
| 113 | Rep. Carlson | Asks what the downside would be of not including those very few trades. |
| 117 | Kreig | States that if they are not listed, they are targets of bid shopping. |
| 121 | Lindberg | Responds that specifically telecommunications is not mentioned and is a huge chunk of public construction. |
| 125 | Rep. Carlson | Refers to page 4, lines 19, 23, and 25, and requests an explanation of the rationale for expanding the scope of those areas listed. |
| 135 | Lindberg | Responds that in line 23 utilities are excluded in the other bill and are a big part of the work on a construction project. |
| 139 | Jeff Carlson | Ironworkers Local 29. Explains that bid shopping occurs after the prime contractor has been selected. Details the finer points of bid shopping and its ramifications on small contractors. |
| | Rep. Carlson | Asks what was the reason for substituting \$350,000 for \$250,000. |
| 213 | Kreig | Responds that based on a survey with contractor organizations the \$250,000 amount was appropriate, or a better fit, for |

| | | |
|-------------------|---------------------|--|
| 216 | Rep. Carlson | contractor organizations and the work that they do. Refers to the language related to clerical errors striking out a bid. Asks if they are tied to that language. |
| 220 | Lindbergh | Responds that the language could be adjusted on the Senate side, if needed. Affirms that it would be unfortunate to eliminate a successful bid based on clerical errors. |
| 238 | Rep. Carlson | Asks about lines 11 – 17 of the –11 amendments, regarding bid opening. |
| 240 | Lindbergh | Responds that there is no problem with this language. |
| 242 | Rep. Carlson | Refers to a provision that appears in the –11 amendments on page 8, specifically the definition of good cause reflecting the least-cost policy. |
| 258 | Kreig | Responds that this provision appears in the –11 amendments but not the –12 amendments. States that he has no substantial comments on this. |
| 261 | Rep. Krummel | Refers to the 1999 version of the bill. States that he does not see the specific trades listing. |
| 272 | Kreig | Replies that under current law all of the trades are covered, hence the individual trades were not listed. |
| 279 | Rep. Krummel | Asks where it states that everyone is covered. |
| 284 | Kreig | Responds that it is by omission. Clarifies that since no one is excluded, therefore, all are included. |
| 317 | Rep. Johnson | Asks philosophically what is Mr. Krieg’s point of view of page 8 and if he considers it problematic. |
| 332 | Kreig | Answers that he is not sure that it is problematic, but is willing to explore this in the rules process. |
| 338 | Rep. Johnson | Asks if there is any difficulty in incorporating the definition of “good cause” reflecting the least-cost policy to the public. |
| 344 | Lindberg | Responds that perhaps best value would be better. |
| 348 | Rep. Bates | Asks how changing the subcontractor’s bid would effect what the state would pay. |
| 365 | Kreig | Responds that the savings would not be transferred to the State. |
| 377 | Jon O’Shell | Association of Oregon Counties (AOC). Testifies that it is critical that bids be open to scrutiny. |
| 380 | Rep. Krummel | MOTION: Moves to ADOPT HB 2052-11 amendments dated 3/30/01. |
| 397 | Rep. Krummel | Expresses support for the –11 amendments. |
| 486 | Rep. Walker | Indicates preference for the –12 amendments. |
| TAPE 90, B | | |
| 010 | Rep. Bates | States he supports the –12 amendments. |
| 033 | Rep. Devlin | States he supports the –12 amendments. |
| 056 | Rep. Carlson | Speaks in support of the –11 amendments, despite some reservation. |
| 076 | Chair Witt | Comments in support of the –11 amendments. Notes that the reduction of \$350,000 is a significant concession on the part of proponents of the –11 amendments. Responds to Rep. Bates’ questions by saying that finding the lowest cost is to the benefit of the public entity and points out that this language is already in statute. |
| 100 | Rep. Bates | Acknowledges it is in statute but expresses doubts that money saved actually goes back to the state. |
| 120 | Chair Witt | Answers that if the money does not go back to the public, then it would not be a defensible reason to make the substitution. |

136 **VOTE: 4-6-1**
AYE: 4 - Brown, Carlson, Krummel, Witt
NAY: 6 - Bates, Devlin, Garrard, Johnson, Monnes Anderson, Walker V
EXCUSED: 1 - Knopp
The motion FAILS.

138 **Chair Witt**
Rep. Walker **MOTION: Moves to ADOPT HB 2052-12 amendments dated 3/30/01.**

140 Rep. Bates States that if Rep. Witt's assessment of current law is correct, then the language in question should be included within the -12 amendments.

150 Rep. Witt Clarifies it is not a question of the money being returned but that a substitution cannot be defended unless it provides a savings to the public.

157 Rep. Witt States that there are clerical errors in the -12 amendments that should be corrected.

159 **VOTE: 5-5-1**
AYE: 5 - Bates, Devlin, Johnson, Monnes Anderson, Walker V
NAY: 5 - Brown, Carlson, Garrard, Krummel, Witt
EXCUSED: 1 - Knopp
The motion FAILS.

165 **Chair Witt**
Chair Witt Closes the work session on HB 2052 and opens a public hearing on HB 3633.

HB 3633 PUBLIC HEARING

174 Dan Clem Committee Administrator. Reads staff preliminary summary of HB 3633, which postpones restructuring of electric power industry until October 1, 2003. States that there are three amendments, a fiscal summary and that there is no revenue impact.

203 Rep. Betsy Close House District 36. Testifies in support of HB 3633 (**EXHIBIT A**). Asks for a two-year delay in the implementation of the act. Explains that competition in the market lowers the price of a commodity, that supply and demand are the economic forces that determine the amount of a product that is produced and its price. States that the Power Deregulation Act will operate as designed when supply is increased.

258 Rep. Monnes-Anderson Asks Rep. Close why she did not support additional changes to HB 3633.

263 Rep. Close Responds that the bill was a last-minute effort, that it had been previously drafted, that other portions that came from other drafts were included but that the amendments omitted several of those sections.

273 Chair Witt Asks why Rep. Close believes that implementation by October 1, 2001 will cause rates to go up.

278 Close States that if the price of natural gas goes up the price increase will be unavoidable.

281 Chair Witt Asks if that would be true irrespective of the implementation date.

287 Rep. Close States she doesn't think the public understands this issue.

293 Rep. Bates States he welcomes this bill. Asks Rep. Close if she would accept an amendment to a three-percent rule.

300 Rep. Close States that she would need to see such an amendment before

| | | |
|-------------------|----------------------|---|
| | | offering to support it. |
| 311 | Rep. Robert Ackerman | House District 39. Testifies in support of HB 3633. Notes some concerns he has with the bill, namely that it defers the imposition of the three-percent public service fee and the \$10 million-per-year assessment for electrical bill payment assistance. States that he has drafted an amendment for his bill, HB 3824, which proposes that the public service fee/payment assistance take place on October 1, 2001 as originally intended, for socially desirable purposes. |
| 391 | Rep. Monnes-Anderson | Asks Rep. Ackerman if he would be willing to work with Rep. Close on amendments to HB 3633. |
| 400 | Rep. Ackerman | Replies affirmatively and reiterates that amendments are already being drafted for HB 3824. States that the committee may be able to consider the two bills concurrently in the near future as alternative options. |
| 408 | Chair Witt | Asks Rep. Ackerman why he feels a delay would be beneficial. |
| 410 | Rep. Ackerman | Responds that if too many people switch to direct access and originating utilities lose revenue, there may be rate increases at the residential level. |
| 434 | Chair Witt | Solicits Rep. Ackerman's opinion whether delaying direct access for up to two years would have a chilling on the siting of new generating facilities in Oregon. |
| 445 | Rep. Ackerman | Replies that there is already a need for additional power and says direct access will not have much impact on increasing power generation capacity in Oregon. Reminds the committee that it takes at least two years to build a new power generating facility. |
| 458 | Rep. Monnes-Anderson | Wonders if the measure will hinder previously approved projects. |
| 471 | Rep. Ackerman | Opines that because investors have so much lead time it will not make much difference. States that there is a generous market, a great demand and a limited supply. |
| TAPE 91, A | | |
| 050 | Rep. Carlson | Talks about the need for conservation, seeing as ninety percent of power is used by a very small amount of users. States that if implementation is delayed the incentive for large users to change their habits and conserve energy disappears. |
| 064 | Rep. Ackerman | Agrees with Rep. Carlson's assessment but adds that the Public Utility Commission (PUC) has not done enough in constructing rates to generate conservation. States that people respond to market stimuli. |
| 072 | Chair Witt | Asks if a delay will create a competitive disadvantage for the larger customers. |
| 079 | Rep. Ackerman | Responds no. Estimates that given the current market circumstances no more than one percent of large industrial customers will go to direct access due to higher prices. |
| 097 | Rep. Bates | Asks what will change if there is a two-year delay in implementation. |
| 110 | Rep. Ackerman | Responds that a deferral of deregulation is the best course of action. |
| 119 | Rep. Devlin | Asks whether a two-year delay sends a message that Oregon is not committed to restructuring. |
| 125 | Rep. Ackerman | Responds that Oregon is trying to show itself to be different from California by taking a slower road to completion. States that deregulation, lack of energy, and increasing energy prices are the |

| | | |
|-------------------|-----------------------|--|
| 143 | Ann Fisher | dominant issues in public perception at this time. Building Owners and Managers Association (BOMA). Testifies in support of HB 3633. States that a postponement in restructuring would benefit approximately 25,000 businesses. States that SB 1149 (1999) was created during a time of ample power generating capacity. Talks about a three-percent benefit charge. States that everyone will benefit by waiting two years |
| 282 | Dave Hamilton | Chairman, BOMA Deregulation Committee. Testifies in support of HB 3633. States that deregulation will cost a great deal of money and postponing it would be a prudent business approach. Explains that BOMA is representing business. |
| 307 | Chair Witt | Asks if the PUC has offered to provide a cost-of-service rate to businesses that did not want to switch to direct access. |
| 310 | Fisher | Answers that in SB 1149 the aforementioned cost-of-service rate is stated as being a market-based rate, which is significantly different than a cost-based rate. |
| 343 | Chair Witt | Asks why a large industrial customer should be denied moving to direct access according to the current timetable for implementation. |
| 356 | Fisher | Responds that perhaps a fairer question would be why should 25,000 businesses suffer a significant detriment in order to enable a handful of industrial customers to go to the market. |
| 377 | Hamilton | Remarks that SB 1149 will have a substantial impact on the cost of doing business. |
| 418 | Fisher | Requests clarification whether that there is a 30-kilowatt (kw) cut-off, which represents a small business the size of a coffee stand. States that such small businesses and large industrials will have to go to the market and pay the market price. |
| 420 | Chair Witt | Notes the agreement for direct access for October 1, 2001 and asks why SB 1149 should be delayed while continuing to impose the public purchase charge. |
| 439 | Fisher | Emphasizes the need for conservation. Opines that the three percent standard makes more sense now than does allowing market forces dictate rates. |
| 453 | Rep. Devlin | Asks whether PUC has authority to modify the 30-kw threshold. |
| 458 | Fisher | Responds that it has been suggested to cut off at a one megawatt (mw) limit, which would cover the majority of small businesses. |
| 475 | Rep. Devlin | Refers to reviewing the California energy situation and says that regardless of whatever action Oregon may take there will likely be a significant increase in power costs. |
| TAPE 92, A | | |
| 053 | Fisher | Concedes that there will be cost increases, even for residential customers protected by SB 1149. Stresses that this is not the time to impose even more volatility to an unregulated rate. States that in two years there will not be as many problems as are being faced today. |
| 262 | Rep. Walker Fisher | Asks Ms. Fisher whether she supported SB 1149 last session. Answers that SB 1149 (deregulation) was not supported by her group because of concern for smaller industries. States that if SB 1149 were to go ahead, many businesses would be harmed. |
| 268 | Rep. Krummel | Asks what if SB 1149 has a stabilizing influence on the power structure and on price structure. |
| 270 | Fisher | Answers that this probably will not happen because the market she represents is a small piece in the West Coast market. |

| | | |
|-------------------|------------------|---|
| 271 | Krummel | Asks if she would recommend delaying deregulation if the situation has not improved in two years. |
| 273 | Fisher | Answers that it is hard to project what course of action would or should be taken. |
| 275 | Krummel | Asks what kind of effect a delay might have on the market. |
| 277 | Fisher | Answers that it will not do a great deal to the market. |
| 285 | Janet Steele | President, Albany Area Chamber of Commerce. Testifies in support of HB 3633. States that there must be a reasonable price for electricity for all citizens of Oregon. |
| 300 | Bill O'Brien | General Manager, National Frozen Foods. Testifies in support of HB 3633. States that HB 3633 is a logical step towards deregulation and allows a much-needed two-year time period to consider all of the options. |
| 338 | Hector McPherson | Albany Area Chamber of Commerce. Testifies in support of HB 3633. Expresses concern regarding the deregulation plan. |
| 368 | Paul Alexander | Business consultant. Testifies in support of HB 3633. Asks that a viable economic study be done of other states that have tried or are trying to deregulate. Suggest that the two year period will facilitate this study and, therefore, economic data can be collected to take away uncertainty of deregulation. |
| 431 | Sandra Flicker | Oregon Rural Electric Cooperative Association. Testifies in support of HB 3633 (EXHIBIT B). |
| TAPE 91, B | | |
| 123 | Sandra Flicker | Stresses that Oregon's co-ops continue to take a neutral position on the provisions in SB 1149 but that its implementation should be delayed. States that co-ops are developing renewed conservation and renewable resource development. Points out that they will receive a rate discount from Bonneville Power Administration (BPA). Assures the committee of support for energy package and stresses that new resources will be built because there is an imbalance and a resource deficit. States that the power generation companies will respond, as witnessed by projects being developed in the Northwest. Characterizes the present electricity market as unstable and volatile and states that in October rates for retail customers will go up as high as 50-100 percent. Opines that the time to deregulate is when there is adequate supply, adequate transmission, and an effective, competitive generation market. |
| 134 | Rep. Walker | Wonders whether it will be possible to tell constituents unequivocally that rate increases of 50-150 percent have nothing to do with deregulation. |
| 143 | Rick Crinklaw | General Manager, Lane Electric Cooperative. States that customers are convinced that rates are rising because of a flawed deregulation plan. Argues that the mission between now and next October should be to mitigate that impact and restore stability to that market. |
| 167 | Rep. Walker | States that it is very hard to tell the public that rates are going up because of restructuring - not deregulation. |
| 180 | Jack Kenny | Deputy Director, Oregon Housing and Community Services Department (OHCSA). Testifies in opposition to HB 3633 (EXHIBIT C). States that HB 3633 will cut programs that provide energy bill payment assistance, energy conservation and affordable housing grants by approximately \$19 million. |
| 206 | Rep. Garrard | States that part of the three-percent public purpose charge is |

| | | |
|-------------------|-----------------|--|
| | | going to low-income housing and to help people with their electric bills. |
| 221 | Chair Witt | Interjects that some of it does go to low income housing, but bill payment assistance is outside of the three-percent public purpose charge. |
| 223 | Rep. Garrard | Continues that not everyone in the state is paying the three-percent but that everyone is benefiting from it. |
| 225 | Kenny | Answers that assistance is provided in the service area from which the fees are collected. |
| 228 | Chair Witt | Adds that ninety nine percent of the benefit must go back to the area where the charges are collected, specifically to PGE and PacifiCorp customers. Adds that language was adopted in SB 843 to continue the \$10 million bill-paying assistance program. |
| 240 | Rep. Walker | Asks Mr. Kenny if he has a preference as to which source the money comes from. |
| 243 | Kenny | States that he would support any legislation that would benefit the low- income populations. |
| 248 | Rep. Devlin | Asks if there is a high likelihood of the money coming from any other source. |
| 253 | Kenny | Expresses his optimism in educating the Legislative body of the importance of assisting low-income Oregonians. |
| 261 | Rep. Carlson | Asks for clarification on Chair Witt's previous comments on SB 843. |
| 268 | Chair Witt | States that SB 843 was amended to put in the \$10 million dollar bill- paying assistance "per year." |
| 275 | Rep. Carlson | Asks for clarification that this bill would indeed delay the implementation of the aforementioned \$10 million per year low income assistance. |
| 281 | Chair Witt | Answers yes. |
| 283 | Jeff Bissonette | Fair and Clean Energy Coalition. Testifies in opposition to HB 3633. Discusses changes initiated about ten years ago at the federal level creating a wholesale market. States that most investor-owned utilities (IOU's) have responded to the creation of this wholesale market with reluctance. States that SB 1149 supports the point of view that private utilities will no longer rate-base resources for a portion of their load, and that they can still maintain an existing rate base. States that SB 1149 will protect customers, conserve energy, and build additional renewable generation, as well as continue support for low-income services. |
| 399 | Ron Eachus | Chairman, PUC. Submits written testimony (EXHIBIT D) and testifies in opposition to HB 3633. States that he is very familiar with the regulatory structure and talks about how protecting ratepayers against unreasonable and unjust increases is a serious task. States that without SB 1149 the utilities would still be seeking rate increases. States that the rate increases are primarily related to increases in the cost of providing power to customers that have nothing to do with SB 1149. Explains that the cost increases are related to a limited availability of power and increased natural gas prices. |
| TAPE 92, B | | |
| 080 | Eachus | Continues testifying in opposition to HB 3633. |
| 150 | Eachus | Continues testifying in opposition to HB 3633. |

| | | |
|-----|--------------|--|
| 210 | Eachus | Continues testifying in opposition to HB 3633. |
| 270 | Eachus | Continues testifying in opposition to HB 3633. |
| 326 | Rep. Krummel | Asks if Oregon has the potential to be a stabilizing force for the rest of the United States. |
| 342 | Eachus | Answers that there is the potential for new generation in Oregon and Washington, most of which will be provided to consumers in the Pacific Northwest. Warns that potential may be lost if uncertainly is created. |
| 387 | Rep. Krummel | States that the Governor has argued that the four Northwest states should control BPA and the Columbia River as a resource. Asks how that could affect prices. |
| 396 | Eachus | Answers that it is an issue of accountability, and that it may be the best way to make sure that the region continues to have the benefits of BPA. |
| 437 | Rep. Garrard | Notes that the selected areas were used as test areas, which is similar to what SB 1149 also attempts to do. Continues that Klamath County was a test area and that the results were disappointing. Indicates that most consumers made no changes and stayed with their main supplier. |
| 452 | Eachus | States the first objective of the pilot project was to see if it was operationally possible. Asserts that success was not measured by how many people would choose the pilot program. Says it became very clear that no company could compete with the utility. Contributes that rates set according to SB 1149 are designed much differently, that the foundation will be laid so that there are active options as the opportunities arise. States that, with the exception of a few customers, it will take a year or so before any new generation comes online. |

TAPE 93, A

(Note: tape began before previous tape was adequately used.)

| | | |
|-----|-------------|---|
| 225 | Chair Witt | Clarifies that the experiment in Klamath County involved residential choosing who their generator would be. |
| 235 | Eachus | Contributes that at the residential level it involved more options that reflected the portfolio options that were offered in SB 1149. |
| 242 | Rep. Devlin | Asks if the PUC, under current law prior to implementation of SB 1149, has the authority to permit an investor-owned utility to divest itself of a generating capacity. |
| 253 | Eachus | Responds that PUC has the ability to approve divestiture. |
| 267 | Rep. Devlin | Refers to the provision in SB 1149 which encourages the Commission to have the utility divest itself of a generating asset. Asks if PUC objects to having that provision removed. |
| 270 | Eachus | Responds that there is no objection. |
| 280 | Rep. Devlin | Asks if any change is anticipated in investor-owned utilities building their own generating capacity. |
| 290 | Eachus | Answers no, as utilities are still looking to buy in the market. |
| 300 | Rep. Walker | Asks witnesses to please double-side copy their testimony. |
| 304 | Chair Witt | Closes the public hearing on HB 3633 and adjourns the committee at 7:25 p.m. |

Submitted By,

Reviewed By,

Renee' Lunsford,
Committee Assistant

Daniel Clem,
Committee Administrator

Transcribed By,

Kate Campeau
Committee Assistant

EXHIBIT SUMMARY

A – HB 3633, written testimony, Rep. Betsy Close, 3 pp.

B – HB 3633, written testimony, Sandra Flicker, 16 pp.

C – HB 3633, written testimony, Jack Kenny, 1 p

D – HB 3633, written testimony, Ron Eachus, 6 pp.