

# HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

April 23, 2001  
3:15 PM

Hearing Room 50  
Tapes 123 - 126

**MEMBERS PRESENT:** Rep. Bill Witt, Chair  
Rep. Tim Knopp, Vice-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

**STAFF PRESENT:** Dan Clem, Administrator  
Patrick Brennan, Administrative Support

**MEASURE/ISSUES HEARD:** HB 3804 Work Session  
HB 2292 Work Session  
HB 2980 Work Session  
HB 3874 Work Session  
HB 3703 Public Hearing and Work Session  
HB 3727 Public Hearing and Work Session  
HB 3796 Public Hearing and Work Session  
HB 3424 Public Hearing  
HB 3318 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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| <u>TAPE/#</u>               | <u>Speaker</u> | <u>Comments</u>  |
|-----------------------------|----------------|--|
| <u>TAPE 123, A</u>          |                |  |
| 004                         | Chair Witt     | Calls the meeting to order at 3:30 p.m. Opens a work session on HB 3804.   |
| <u>HB 3804 WORK SESSION</u> |                |  |
| 006                         | Rep. Knopp     | <b>MOTION: Moves HB 3804 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the Committee on Ways and Means.</b>                                       |
| 014                         |                | <b>VOTE: 6-0-5</b><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><b>EXCUSED: 5 - Carlson, Garrard, Krummel, Monnes-Anderson,</b><br><b>Walker</b> |
|                             | Chair Witt     | <b>The motion CARRIES.</b>   |
| 020                         | Chair Witt     | Closes the work session on HB 3804 and opens a work session on HB 2292.  |
| <u>HB 2292 WORK SESSION</u> |                |  |
| 024                         | Rep. Knopp     | <b>MOTION: Moves HB 2292 to the floor WITHOUT RECOMMENDATION as to passage and BE</b>  |

**REFERRED to the Committee on School Funding and Tax  
Fairness/Revenue by prior reference.**

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| 028 | Rep. Johnson         | Asks whether the Governor's Office is aware that the bill is being moved to another committee.  |
| 032 | Chair Witt           | Explains that the best place to work on the bill is the Committee on School Funding and Tax Fairness/Revenue (Revenue). Notes that the bill has a subsequent referral to Revenue and would have been sent there anyway.   |
| 043 | Chip Lazenby         | Governor's Counsel. States there have been refinements made to the bill. Indicates there are negotiations underway regarding a single word, adding that the word will affect the bill's fiscal impact. Opines that this committee should make the determination as to which word should be used in the bill.          |
| 055 | Rep. Devlin          | Asks Mr. Lazenby which word should be used and whether the Governor's Office is willing to come up with a compromise word.  |
| 062 | Lazenby              | Responds that there are a number of alternatives, some of which are more acceptable than are others. Asserts that the word chosen will have significant impact on the scope of the program. Adds that the Governor is not inflexible on the issue but wants to ensure that the right balance is struck.               |
| 072 | Rep. Devlin          | Submits there must be a way to deal with the issue without becoming mired in semantic differences.  |
| 077 | Lazenby              | Concurs and says that is why this committee should be the one to decide the issue.  |
| 082 | Chair Witt           | Asks when the Bond Counsel will decide on the revenue issue.  |
| 085 | Rep. Walker          | Requests clarification as to the wording that is the point of contention.   |
| 088 | Lazenby              | Provides alternative missions of the Oregon Lottery and the groups that wish for each alternative to be the one chosen: <ul style="list-style-type: none"><li>• "control" (Governor's Office)</li><li>• "manage" (Oregon Restaurant Association)</li><li>• "regulate"</li><li>• "govern"</li><li>• "direct"</li></ul> |
| 108 | Rep. Knopp           | Asks when the parties might be able to come to agreement.   |
| 110 | Chair Witt           | Replies that it is uncertain when or if a compromise will be reached.   |
| 118 | Lazenby              | Says he is hopeful that there will be resolution on the wording issue.  |
| 123 | Chair Witt           | Asks whether it would not be helpful to move the bill along and perform the wordsmithing in Revenue.  |
| 124 | Lazenby              | Concedes that the work could be done there but says his office has worked on the language in this committee and with its members. Asserts that a resolution could come sooner here than there.  |
| 139 | Chair Witt           | Says the bill can be dealt with by either committee.  |
| 149 | Rep. Monnes-Anderson | Says she would prefer that the parties make one more effort to come up with compromise language before the bill is sent to Revenue.   |
| 154 | Rep. Walker          | Agrees that the bill should not be sent to Revenue until a word is  |

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| 158 | Chair Witt        | chosen, adding that if the parties cannot make the choice the committee should do so for them.                   |
| 163 | <b>Rep. Knopp</b> | Agrees to bring the bill back for a subsequent work session if Rep. Knopp will withdraw his motion.              |
| 170 | Chair Witt        | <b>Withdraws the previous motion.</b><br>Closes the work session on HB 2292 and opens a work session on HB 2980. |

**HB 2980 WORK SESSION**

|     |              |  |
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| 177 | Jon Chandler | Oregon Building Industries Association (OBIA). Testifies in support of HB 2980. Indicates that the parties are coming together on the bill. Requests that the bill be sent to Revenue for further work.  |
| 189 | Rep. Johnson | Wonders why the bill should be sent to Revenue if progress is being made in this committee.  |
| 193 | Chandler     | Acknowledges that the work can be done in this committee but emphasizes the need to keep the bill moving through the process. Mentions that the bill has a subsequent referral and will be sent to Revenue either way.   |
| 200 | Rep. Knopp   | Comments that at this point in the legislative session bills that are not moving through are in danger of dying in committee. Agrees that the bill should be moved along. Encourages consideration of whether there is time to devote to the bill in this committee. |
| 216 | Chair Witt   | Indicates he will keep the bill in this committee if there is consensus to do so but adds that it may be more difficult to move the bill later.  |
| 222 | Rep. Johnson | Indicates that she will support either working the bill in this committee or moving it to Revenue for additional work.   |
| 227 | Rep. Walker  | Opines that the bill requires more than a one-word change and should be moved to Revenue rather than wait for the parties to come to agreement.  |
| 240 | Chair Witt   | States that the bill will be put on the calendar for April 30 with the expectation that amendments will be prepared by that time. Closes the work session on HB 2980 and opens a work session on HB 3874.  |

**HB 3874 WORK SESSION**

|     |                 |  |
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| 250 | Dan Clem        | Committee Administrator. Gives a brief description of the bill. Indicates that the -2 amendments ( <b>EXHIBIT A</b> ) have been submitted for the committee's consideration. Provides committee members with informational materials regarding anti-smoking initiatives and ordinances. Indicates that tobacco money may be used to encourage anti-smoking legislation up until such measures are before voters or the city council. |
| 304 | Clem            | Describes the Linn County case. Mentions that the Best Practices Manual does not require lobbying for anti-smoking measures but says it does list lobbying as an accepted activity. Comments that counties typically base their approach on the Best Practices Manual.   |
| 378 | Grant Higginson | Acting Administrator, Oregon Health Division (OHD). Reviews materials provided previously to the committee. States that OHD does not require counties to work toward passage of ordinances in exchange for funding, but says it does require counties to choose and pursue a selected set of activities that may or may not include those ordinances.  |

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| 003 | Chair Witt   | Asks if OHD regulates use of tobacco funds used to lobby local governments.   |
| 004 | Higginson    | Replies there is no state law or regulation that makes it illegal to work for passage of local ordinances up until the measure in question is actually on the ballot. Asserts it is difficult for OHD to determine whether the activities it suggests constitute “lobbying” or “political activity”   |
| 019 | Chair Witt   | Asks whether there is prohibition against lobbying for a measure that is before a city council.   |
| 021 | Higginson    | Replies that there is no prohibition against testifying before a city council in support of a local ordinance.  |
| 025 | Chair Witt   | Requests confirmation that there is nothing to prevent salaried government employees from lobbying city councilpersons to ban smoking in bars or other public places.   |
| 030 | Higginson    | Responds that the “lobbying” referred to by the chair could be considered providing information. Hypothesizes that a city council could solicit the opinions of government employees with regard to smoking ordinances.   |
| 040 | Chair Witt   | Asks whether the funds are accompanied by a list of prohibited activities.  |
| 043 | Clem         | Answers that the list consists of permitted activities, not prohibited ones.  |
| 046 | Rep. Devlin  | Acknowledges that there is a widespread notion that public dollars cannot be used for political purposes, but says that prohibits only purposes that are clearly political. Wonders whether public health issues should be specifically identified as different when it comes to informing the public. Agrees that there should be a prohibition on doing so when a measure is on the ballot. |
| 074 | Chair Witt   | Remarks that ordinances usually are not placed on the ballot but are instead deliberated in the city council. Asks whether it is appropriate to use the money to lobby a city council.  |
| 079 | Rep. Devlin  | Compares such lobbying to that of land use decisions.   |
| 081 | Chair Witt   | Wonders whether the program was designed to allow this kind of public advocacy.   |
| 088 | Rep. Devlin  | Replies he is not sure.   |
| 090 | Chair Witt   | Opines that lobbying city councils for anti-smoking ordinances was probably not intended to be part of educating the public on the dangers of smoking.  |
| 095 | Rep. Krummel | Mentions that OHD is not in a position to impose regulation in this case.   |
| 109 | Rep. Devlin  | Responds that OHD has significant regulatory responsibilities in some areas.  |
| 113 | Chair Witt   | Reiterates that some funds go to nonprofit lobbying organizations. Asserts that the use of the funds has stepped over the line of proper usage.   |
| 122 | Rep. Bates   | Asks whether OHD testifies regarding other issues such as water standards and, if so, whether it has ever been involved in passing a ballot measure on such an issue.   |
| 125 | Higginson    | Replies affirmatively, clarifying that OHD’s involvement was limited to providing information.  |
| 135 | Rep. Bates   | Asks whether there are potential hazards in providing similar information regarding the cessation of smoking.   |
| 139 | Higginson    | Compares anti-smoking efforts to communicable disease control   |

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|     |                      | efforts. Emphasizes the need to work on the issue in ways other than lobbying as well. Says there is little in statute to give guidance as to what the funds may be used for.   |
| 158 | Rep. Monnes-Anderson | Mentions she previously managed tobacco prevention efforts in Clackamas County and did not lobby or advocate for ordinances during that time. Agrees that staff using public dollars should only provide information and education. Asks if there are discrepancies between how funds are used in different counties. |
| 173 | Higginson            | Says he supports the prohibition against lobbying on ballot measures. Asserts that counties should decide for themselves what a lobbying activity is and how to control them accordingly.   |
| 184 | Rep. Carlson         | Asks if Mr. Higginson has reviewed the language in the –2 amendments. Solicits his opinion regarding the language that should be used.  |
| 195 | Higginson            | Comments on the use of the word “advocate.”   |
| 203 | Rep. Carlson         | Remarks that the language seems to leave the matter unclear.  |
| 233 | Higginson            | Emphasizes that public employees should have the right to advocate for anti-smoking ordinances or measures on their own time.   |
| 251 | Chair Witt           | Remarks that ordinances against smoking do not seem to fit into the definition of “education.”  |
| 255 | Higginson            | Responds that the Best Practices Manual shows that advocacy is a good way to prevent smoking.   |
| 260 | Rep. Krummel         | Says his experience in local government makes him aware that there is case law on issues such as this. Says that changing the term to “advocate” is another issue.  |
| 280 | Rep. Bates           | Remarks that passage of an actual ordinance in an election should be the issue under consideration. Argues that if a public official is called before a city council and asked what they believe to be the best practice it should not be advocacy.   |
| 288 | Higginson            | Agrees with Rep. Bates.   |
| 291 | Chair Witt           | Comments that a prohibition against advocacy would seem to prohibit one from speaking favorably about or work toward the passage of a measure or ordinance. Agrees that information could be provided but says no support or opposition should be voiced.   |
| 308 | Rep. Walker          | Disagrees. Says that the –2 amendments should include the phrase “once put on the ballot.” Asserts that the language is too broad and vague in its current form..   |
| 316 | Chair Witt           | Remarks that many ordinances do not take the ballot route. Says there is a big difference between providing information and advocating a position for or against a measure. Acknowledges that information alone may persuade some, but reiterates that public employees should not weigh in with their opinion.       |
| 334 | <b>Rep. Knopp</b>    | <b>MOTION: Moves to ADOPT HB 3874-2 amendments dated 4/11/01.</b>   |
| 339 |                      | <b>VOTE: 10-0-1</b>   |
|     |                      | <b>EXCUSED: 1 - Devlin</b>  |
|     | <b>Chair Witt</b>    | <b>Hearing no objection, declares the motion CARRIED.</b>   |
| 346 | Bill Perry           | Oregon Restaurant Association (ORA). Testifies in support of HB 3874 as amended.  |
| 351 | Rep. Walker          | Recalls previous meeting discussion when there was mention of drafting amendments to the bill.  |

369 Chair Witt  
380 Perry  
Indicates that the –2 amendments were drafted by Rep. Krummel.  
Recalls the process by which ORA participated in coming up  
with language for amending the bill. Reiterates that the intent  
was to deal specifically with overt political activities.

**TAPE 123, B**

002 Rep. Walker  
Remembers asking Mr. Perry if ORA’s involvement was  
requested by the tobacco industry.

010 Perry  
Assures that this bill has nothing to do with the tobacco industry,  
but rather out of other activities with OHD.

022 Rep. Walker  
Mentions that the ORA web site claims that tobacco money is  
being used in such a way as to put a segment of the restaurant  
industry at risk.

036 Rep. Bates  
Asks whether it would be considered lobbying if a public official  
were called before a city council to testify that an anti-smoking  
ordinance was a good way to curb smoking.

042 Perry  
Replies that the health effects of smoking are clear. Says the  
question is whether it is information that is being presented or a  
position on a specific ordinance.

048 Rep. Bates  
Opines that the key is how the terms are defined.

055 Perry  
Agrees that those called to testify should have the right to  
respond to any question put before them on a witness stand.  
Indicates that ORA has a good working relationship with OHD,  
but that the division continues to push the matter to the point  
where there is a growing adversarial relationship.

**080 Rep. Knopp**  
**MOTION: Moves HB 3874 to the floor with a DO PASS AS  
AMENDED recommendation.**

083 Rep. Krummel  
Remarks that case law seems clear on the matter, but  
acknowledges that there are some gray areas. Compares two very  
similar statements, one of which is advocacy and one not. Agrees  
it is often difficult to draw a distinction between the two. Argues  
that it is appropriate for the legislature to set limits as to what  
public employees can or cannot do in relation to supporting or  
opposing a measure. Indicates he supports the motion.

116 Rep. Devlin  
Indicates he opposes the motion. Says Rep. Krummel’s  
distinction is reasonable, but believes the proponents have not  
found language that gets to that point. Opines that the effect of  
the amended bill will be to chill the provision of information to  
local decision-making bodies.

128 Chair Witt  
Asks who may be motivated to limit anti-smoking efforts.

130 Rep. Devlin  
Replies he is not charging that it is anyone’s intention to do so,  
but says that will be the result nonetheless.

136 Rep. Carlson  
Comments that perception is often reality and that if people  
believe money is being used inappropriately then it will have a  
detrimental effect to the anti-smoking cause. Asserts that  
ordinances are part of the best practices. Indicates support for the  
motion.

167 Chair Witt  
Defines “advocate.” Says providing information on request  
should not be affected.

175 Rep. Walker  
Declares that the –2 amendments are too broad.

**190**  
**VOTE: 7-3-1**  
**AYE: 7 - Brown, Carlson, Garrard, Knopp,**  
**Krummel,**  
**Monnes Anderson, Witt**  
**NAY: 3 - Bates, Devlin, Walker V**

**Chair Witt**

**EXCUSED: 1 - Johnson**

**The motion CARRIES.**

**REP. STARR will lead discussion on the floor.**

195 Rep. Devlin  
197 Rep. Walker  
210 Chair Witt

Posts notice of possible minority report.

Posts notice of possible minority report.

Closes the work session on HB 3784 and opens a public hearing on HB 3703.

**HB 3703 PUBLIC HEARING**

220 Rep. Krummel

Testifies in support of HB 3703 and explains why he brought forth the measure.

235 Kevin Kelly

President, Portland Oregon Sports Authority (POSA). Testifies in support of HB 3703 (**EXHIBIT B**). Describes the makeup and purpose of POSA. Indicates that POSA has helped bring events such as World Cup soccer, the NCAA Women's Basketball Tournament, and the Subaru Gorge Games to Oregon. Asserts that such events have a positive economic impact throughout the state.

280 Scott Andrews

Chair Emeritus, POSA. Testifies in support of HB 3703 (**EXHIBIT C**). Mentions that POSA was provided with a \$100,000 grant from the Oregon Economic and Community Development Department (OECDD) for strategic marketing to bring premier sports events and conventions to the State of Oregon. Describes some of the programs brought with the help of the current grant. States that there has been an estimated 900 percent return on the \$100,000 investment.

333 Randy Miller

Chairman, POSA. Testifies in support of HB 3703 (**EXHIBIT D**). Describes the role of the POSA Foundation and its benefit to Oregon's youth.

398 Drew Mahalic

Chief Executive Officer, POSA. Testifies in support of HB 3703 (**EXHIBITS E, F**). Provides an overview of POSA's involvement in efforts to bring a Major League Baseball (MLB) franchise to Portland.

**TAPE 124, B**

035 Chair Witt

Asks for information regarding sources of private funding that go into POSA.

040 Mahalic

Responds that there are many private groups and individuals who invest in POSA, not for corporate gain but for the good of the state. Says that funding allows aggressive bidding that has resulted in drawing events to the state.

060 Chair Witt

Asks whether POSA was provided with state funds for the first time in 1999.

063 Mahalic

Answers that POSA was provided a \$100,000 grant in both 1997 and 1999.

066 Rep. Bates

Asks whether there is a department in the state charged with overseeing these efforts.

070 Miller

Answers negatively, adding that there was insufficient regional money for doing so.

073 Mahalic

Explains that the lack of regional funding for sports tourism prompted the need to request funding from the legislature.

076 Rep. Bates

Asks whether POSA is committed to bringing MLB to Portland.

078 Mahalic

Replies that MLB is the type of activity that POSA seeks to bring to the state.

085 Rep. Johnson

Notes that OECDD already supports the arts and other activities,

|            |                      |   |
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|            |                      | while POSA is designated as the state's sports tourism authority. Inquires who referred POSA to the legislature for additional funding.   |
| 090        | Mahalic              | Replies that those who administer the regional investment grants recommended that POSA make the request.  |
| 096        | Rep. Johnson         | Comments that many such grants are given only if there is an advocate for the particular mission within OECDD. Wonders whether there was an effort to fund POSA in accordance with its nomenclature as the sports authority in the state. Asserts that the witnesses should be able to persuade OECDD to provide additional funding.  |
| 114        | Mahalic              | Says he was devastated to learn that there was no existing capacity for sports tourism in the state. Says that creating guidelines for the program has been difficult because it is relatively new.   |
| 122        | Rep. Johnson         | Doubts how successful POSA will be in the long term. Suggests POSA should look seek an appointment with the board members of OECDD rather than seek whatever it can get from the legislature.   |
| 140        | Chair Witt           | Closes the public hearing and opens a work session on HB 3703.  |
| <b>144</b> | <b>Rep. Krummel</b>  | <b>MOTION: Moves HB 3703 to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.</b>  |
| 148        | Chair Witt           | Remarks that POSA has contributed a great deal to the state over the years, largely through voluntary contribution. Concedes that not everyone is a sports fan but says the entire community benefits from the presence of sports events. Opines that the request is appropriate and modest. Emphasizes that POSA has gotten results with the funding they have received in the past.   |
| 160        | Rep. Bates           | Indicates he will support the motion but says that the funding mechanism is wrong for the mission. Suggests that POSA find a more appropriate funding mechanism.  |
| 167        | Rep. Johnson         | Indicates that she will not support the motion because she believes the request to be symptomatic of a systemic problem. States that OECDD is responsible for promoting tourism and economic development. Remarks that POSA should not be forced to look for a modest allocation from the legislature when OECDD is responsible for promoting this type of activity. Emphasizes the need to fund POSA commensurate with its responsibility. |
| 188        | Rep. Monnes-Anderson | States she will be voting no on the motion as well. Argues that the matter should be dealt with in another way.   |
| 193        | Rep. Krummel         | Expresses support for POSA. Notes that the return on the investment in POSA has been very high. Elaborates that hotels, restaurants, and area businesses have benefited from increased tourism, as has the state through income, restaurant, and hotel taxes..  |
| <b>205</b> |                      | <b>VOTE: 7-3-1</b><br><b>AYE: 7 - Bates, Brown, Carlson, Devlin, Knopp, Krummel, Witt</b><br><b>NAY: 3 - Garrard, Johnson, Monnes Anderson</b>  |

**EXCUSED: 1 - Walker V**

**The motion CARRIES.**

210 Chair Witt  
Chair Witt Closes the work session on HB 3703 and opens a public hearing on HB 3727.

**HB 3727 PUBLIC HEARING**

212 Dan Clem  
240 Bob Ames  
Committee Administrator. Gives a brief description of the bill. Portland Rose Festival Association. Testifies in support of HB 3727 (**EXHIBIT G**). States that the budget for the Portland Rose Festival is going up due to rising costs. Indicates that the Portland International Raceway (PIR) is the only facility of its type in the Pacific Northwest. Mentions that the Freightliner/G.I Joe's 200 race is similar to others in the rest of the world. Remarks that Portland is by far the smallest community holding such an event. Laments the need to seek outside funding for the race at this time.

298 Dick Clark  
Portland Rose Festival Association. Testifies in support of HB 3727. Describes other activities that are held at the raceway. Says that proceeds from the race have helped maintain PIR and have also provided funding for the festival budget. Comments that Rose Festival 2000 generated \$80 million for the state, of which \$25 million was generated by the Freightliner/G.I. Joe's 200.

350 Mark Wigginton  
PIR. Testifies in support of HB 3727. States that the plan for PIR includes \$15 million in projects to maintain and improve the facility. Says the track has not been paved since the early 1980s. Mentions that a pedestrian track and a spectator bridge are needed. Comments that PIR receives no general fund money despite being under the jurisdiction of the Parks department. Says efforts are underway to sell naming rights to get more private funding.

381 Rep. Johnson  
Wonders whether PIR is equipped with a helipad for medical evacuation.

395 Wigginton  
Replies negatively but says that helicopters can land on the infield grass during races in case of emergency.

401 Rep. Bates  
Asks whether the money will come out of economic development funds.

410 Clark  
418 Chair Witt  
Answers that PIR is not under the auspices of OECDD. Notes that the measure has a subsequent referral to the Committee on Ways and Means (W&M).

**TAPE 125, A**

008 Ames  
Comments that there are a number of large communities that would like to have the Freightliner/G.I. Joe's 200.

018 Chair Witt  
Notes that the race has the highest attendance of any sporting event in Oregon.

024 Clark  
029 Ames  
Adds that PIR also holds other events such as CART races. Describes the time and investment that other communities have expended in bringing in similar events.

038 Rep. Johnson  
Notes that the press has reported strife between PIR and the surrounding community. Inquires how PIR has addressed this problem.

044 Wigginton  
Responds that noise is understandably the source of most of the disagreements with the neighborhood and says the facility has not used all of its available variances.

054 Rep. Johnson Asks to what extent race enthusiasts have kept up PIR. Wonders whether additional cost of upkeep may drive ticket prices to the point where attendance begins to fall.

061 Wigginton Points out that PIR uses gate receipts from popular events such as the Freightliner/G.I. Joe's 200 to help pay for other public uses, such as bicycle races.

085 Chair Witt Closes the public hearing and opens a work session on HB 3727.

**HB 3727 WORK SESSION**

086 Rep. Knopp **MOTION: Moves HB 3727 to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.**

090 Rep. Bates Indicates that he will support the motion but says there should be better agency funding to help prevent the need to come to the legislature for funding.

096 Rep. Johnson Indicates that she will be voting no. Asserts that OECDD should be providing the funding necessary to improve PIR. Submits that perhaps OECDD should create a new category for capital maintenance.

114 Rep. Garrard States he will vote no on the motion. Says that money to fund this project would need to come out of other programs. Opines it is not the job of the legislature to determine which economic development projects should be funded.

123 Chair Witt Expresses support for PIR and the job they have done with economic development for the state.

130 **VOTE: 7-2-2**  
**AYE: 7 - Bates, Brown, Carlson, Devlin, Knopp, Krummel, Witt**  
**NAY: 2 - Garrard, Johnson**  
**EXCUSED: 2 - Monnes Anderson, Walker V**  
**The motion CARRIES.**

140 Chair Witt Closes the work session on HB 3727 and opens a work session on HB 3804.

**HB 3804 WORK SESSION**

144 Chair Witt Explains that the bill was inadvertently referred to the Committee on Ways and Means but instead must be referred to the House Committee on Rules, Redistricting, and Public Affairs.

148 Chair Witt **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote by which HB 3804 was referred without recommendation as to passage to the Committee on Ways and Means.**

151 **VOTE: 9-0-2**  
**AYE: In a roll call vote, all members present vote Aye.**  
**EXCUSED: 2 - Monnes-Anderson, Walker**  
**The motion CARRIES.**

145 Chair Witt **MOTION: Moves to RECONSIDER the vote by which HB 3804 was referred without recommendation as to passage to the Committee on Ways and Means.**

159 **VOTE: 9-0-2**  
**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 2 - Monnes-Anderson, Walker**

**The motion CARRIES.**

167 Chair Witt  
Chair Witt

**MOTION: Moves HB 3804 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Rules, Redistricting, and Public Affairs.**

175

**VOTE: 9-0-2**

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

**EXCUSED: 2 - Monnes-Anderson, Walker**

**The motion CARRIES.**

181 Chair Witt  
Chair Witt

Closes the work session on HB 3804 and opens a public hearing on HB 3796.

**HB 3796 PUBLIC HEARING**

184 Dan Clem

Committee Administrator. Gives a brief description of the bill. Indicates that the –1 amendments (**EXHIBIT H**) have been submitted for the committee’s consideration. Describes the –1 amendments.

199 Tim Martinez

Oregon Bankers Association. Testifies in support of HB 3796. States the measure originally applied to all open ended agreements, while the amended bill applies only to credit cards issued in Oregon. Mentions that credit cards for Oregon companies can be issued to any resident of any state, but says the laws of Oregon apply to them no matter where they live. Notes that other states have eliminated the 10-day notice requirement, making this measure necessary to keep Oregon banks issuing credit cards competitive. Clarifies that the only people affected by the measure will be those who do not make payments on time.

234 Rep. Devlin

Requests confirmation that some companies will be required to notify customers of the change.

242 Martinez

Replies affirmatively.

246 Greg Aube

President and CEO, First Consumers National Bank, Beaverton. Testifies in support of HB 3796. States that First Consumers is hindered in its ability to compete with banks from other states when it comes to issuing credit cards. Remarks on the recent trend toward consolidation in the credit card industry. Says most credit card-issuing banks are located in free market regulatory states. Urges amending the statute to allow Oregon banks to compete on a national basis.

296 Chair Witt

Asks whether Oregon law requires a certain amount of time between mailing of bills and due date.

300 Aube

Replies negatively, but says federal law requires 14 days from mailing to due date.

304 Chair Witt

Concludes that Oregonians are aware they have time from mailing to due date. Comments that different credit cards have different pay periods and requirements.

321 Rep. Johnson

Asks how the measure could be seen as anything but unfriendly to consumers.

327 Martinez

Describes how the banks contribute to Oregon’s economy.

Mentions that no state allows a grace period for the late fee.

353 Aube

Asserts that banks are a non-polluting industry that benefits the state’s economy.

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|--------------------------------------|-------------------|---|
| 369                                  | Martinez          | Reiterates that only those who make payments late will be adversely affected by the measure. Observes that the credit card market is highly competitive.  |
| 390                                  | Rep. Johnson      | Asks whether there is a sense that if the bill does not pass the jobs and economic benefit to the state will dry up.  |
| 397                                  | Aube              | Concurs with Rep. Johnson's analysis.   |
| <b>TAPE 126, A</b>                   |                   |   |
| 007                                  | Martinez          | Says the measure could attract other banks to Oregon.   |
| 011                                  | Chair Witt        | Closes the public hearing and opens a work session on HB 3796.  |
| <b><u>HB 3796 WORK SESSION</u></b>   |                   |   |
| 012                                  | <b>Rep. Brown</b> | <b>MOTION: Moves to ADOPT HB 3796 amendments dated 4/23/01.</b>   |
| 015                                  |                   | <b>VOTE: 9-0-2</b>  |
|                                      |                   | <b>EXCUSED: 2 - Monnes-Anderson, Walker</b>   |
|                                      | <b>Chair Witt</b> | <b>Hearing no objection, declares the motion CARRIED.</b>   |
| 018                                  | <b>Rep. Brown</b> | <b>MOTION: Moves HB 3796 to the floor with a DO PASS AS AMENDED recommendation.</b>   |
| 020                                  | Rep. Carlson      | Opines that the measure will benefit the state's banking industry and says she will support the motion.   |
| 032                                  | Chair Witt        | Asserts that the federal consumer protections appear to be sufficient and indicates he will support the motion. Says consumers should have choices and the state should not hamper the competitiveness of Oregon companies. |
| 046                                  |                   | <b>VOTE: 9-0-2</b>  |
|                                      |                   | <b>AYE: In a roll call vote, all members present vote Aye.</b>  |
|                                      |                   | <b>EXCUSED: 2 - Monnes-Anderson, Walker</b>   |
|                                      | <b>Chair Witt</b> | <b>The motion CARRIES.</b>  |
|                                      |                   | <b>REP. BROWN will lead discussion on the floor.</b>  |
| 047                                  | Chair Witt        | Closes the work session on HB 3796 and opens a public hearing on HB 3424.   |
| <b><u>HB 3424 PUBLIC HEARING</u></b> |                   |   |
| 048                                  | Dan Clem          | Committee Administrator. Gives a brief description of the bill. Indicates that the -1 amendments ( <b>EXHIBIT I</b> ) have been submitted for the committee's consideration.  |
| 058                                  | Jeff Carlsen      | Iron Workers Local 29. Testifies in support of HB 3424.   |
| 064                                  | Bob Shiprack      | Oregon Building Trades Council. Testifies in support of HB 3424. Explains that there is a technical change that needs to be made to the -1 amendments before the bill can be moved.   |
| 088                                  | Clem              | Describes the change that needs to be made to the -1 amendments and says it is more substantive than correcting a clerical error.   |
| 116                                  | Shiprack          | Mentions that the amendments also add the correct reference. Clarifies that it was not their intention to create any new programs or responsibilities in the bill or amendments.  |
| 125                                  | Chair Witt        | Asks whether there is a problem with section 1.   |
| 130                                  | Clem              | Acknowledges that section 1 needs to be amended. Recommends that the committee bring the bill back at a future meeting when revised amendments are in hand.   |
| 143                                  | Carlsen           | States the measure complements HB 2624, related to weekly certified payrolls. Says the requirement is already in place that contractors register with the Bureau of Labor and Industry (BOLI) within 30 days.               |

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| 164 | Chair Witt | Concludes that the bill merely adds the requirement that first-year subcontractors be added to a report that is already sent to BOLI.  |
| 170 | Carlsen    | Replies affirmatively, adding that BOLI has no objection. Mentions that the City of Portland was the entity that indicated the need to make the change.                        |
| 181 | Chair Witt | Indicates that the bill will be brought back for a subsequent hearing once amendments are in hand. Closes the public hearing on HB 3796 and opens a public hearing on HB 3318. |

**HB 3318 PUBLIC HEARING**

|     |              |  |
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| 194 | Dan Clem     | Committee Administrator. Gives a brief description of the bill. Oregon Cable Association. Testifies in support of HB 3318. States that the bill is worded incorrectly and needs amending. Mentions that there is a group that wishes to work out compromise language. States that cable companies are expanding into different areas, and that expansion sometimes requires them to attach to existing telephone poles, which federal law allows them to do in the public right-of-way. States that the bill allows attachment to a pole on private land through an existing easement. Clarifies that if no space on the pole the company would need to have existing pole usage rearranged at their expense. Mentions that there is a cost for doing so, meaning that the bill is not merely a free ride for cable companies. |
| 207 | Mike Dewey   |  |
| 260 | Dewey        | Offers an example of a location between Gold Beach and Brookings where a landowner refused to provide consent for placement of a pole on his property. Says the bill provides the opportunity to attach to existing poles without landowner approval, which is admittedly controversial. Says the addition of a single additional line is not too much of an imposition. Requests permission to discuss compromise language with opponents of the bill.  |
| 305 | Rep. Johnson | Asks whether the bill gives permission to place new poles on land against the wishes of a landowner.   |
| 311 | Dewey        | Replies that it is the desire of cable companies to use existing routes wherever possible but says it not always possible to do so.  |
| 330 | Rep. Johnson | Offers a scenario where a landowner brings power in to her property and terminates the line there. Wonders whether the bill would allow a cable company to continue past the terminating pole and build more poles to complete the circuit on the property.  |
| 340 | Dewey        | Replies negatively, adding that the measure would allow only the use of existing poles.  |
| 347 | Rep. Johnson | Remarks that the bill's opponents disagree with that assessment.   |
| 352 | Dewey        | Agrees that the bill does allow access to an existing run of poles without the landowner's permission, but says the cable company would need more permission from landowner to erect more poles. States that is the intent of the existing language in the bill.   |
| 375 | Rep. Johnson | Wonders why the committee should support the measure if the intent of the bill does not concur with the language used.   |
| 381 | Dewey        | Concedes that the bill requires amending, and says he only wants to clarify the need for the bill. Says there may be a chance to make the bill amendable to all parties.   |
| 396 | Rep. Brown   | Asks whether easements detail what may be placed on a piece of property where the easement exists.   |
| 401 | Dewey        | Offers the example of power company, which may have an easement which allows siting of poles and lines and access for  |

service. Says in such an example the power company owns and maintains the pole, and retains the right to come onto the property and service pole and lines. Says this bill allows a cable company to use the same easement so long as it utilizes the existing infrastructure.

**TAPE 125, B**

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| 011 | Rep. Brown   | Wonders whether a law can be passed to alter an existing easement.  |
| 023 | Rep. Bates   | Says the measure raises an interesting issue. Asks whether the bill allows cable companies to utilize poles even if the existing easement is for underground conduit. |
| 031 | Dewey        | Replies that a cable company would need to use the infrastructure that is in place, be it pole or conduit.  |
| 034 | Rep. Johnson | Asks whether cable companies would be able to resurrect previous easements and place poles on them.   |
| 037 | Dewey        | Replies he does not know but hypothesizes that it would not allow that. Mentions that poles are typically removed once an easement is no longer in use.               |
| 043 | Rep. Johnson | Asserts that the measure may apply to easements that are still in effect if no longer active.   |
| 049 | Dewey        | Requests the opportunity to investigate the matter further.   |
| 054 | Rep. Brown   | Asks whether such easements are generally given for lines run to the landowner or if they are usually for property owners down the line.                              |
| 057 | Dewey        | Answers that easements are needed only when the lines do not serve the landowner because they are needed when a landowner objects to the presence of the utility.     |
| 066 | Rep. Walker  | Asks if there was a pole attachment bill submitted last session.  |
| 070 | Dewey        | Indicates there was, but says this measure also applies to conduit.   |
| 078 | Brian Boe    | Portland General Electric (PGE). Testifies that PGE will work to resolve the issues in good faith.  |
| 090 | Chair Witt   | Closes the public hearing on HB 3432 and adjourns the meeting at 6:28 p.m.  |

Submitted By,

Reviewed By,

Patrick Brennan,  
Committee Assistant

Dan Clem,  
Committee Administrator

**EXHIBIT SUMMARY**

- A – HB 3874, -2 amendments, staff, 1 p.**
- B – HB 3703, testimony, Kevin Kelly, 2 pp.**
- C – HB 3703, testimony, Scott Andrews, 2 pp.**
- D – HB 3703, testimony, Randy Miller, 2 pp.**
- E – HB 3703, testimony, Drew Mahalic, 2 pp.**
- F – HB 3703, informational materials, Drew Mahalic, 24 pp.**
- G – HB 3727, informational materials, Bob Ames, 12 pp.**
- H – HB 3796, -1 amendments, staff, 3 pp.**

**I – HB 3424, -1 amendments, staff, 1 p.**