

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

May 7, 2001
3:15 PM

Hearing Room 50
Tapes 138 - 139

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. Jerry Krummel
Rep. Laurie Monnes-Anderson
Rep. Vicki Walker

MEMBER EXCUSED: Rep. Bill Garrard

STAFF PRESENT: Dan Clem, Administrator
Patrick Brennan, Committee Assistant

MEASURE/ISSUES HEARD: HB 2964 Work Session
HB 2764 Work Session
HR 1 Public Hearing and Work Session
HJM 17 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 138, A		
004	Chair Witt	Calls the meeting to order at 3:44 p.m. Opens a work session on HB 2964.
<u>HB 2964 WORK SESSION</u>		
006	Dan Clem	Committee Administrator. Gives a brief description of the bill. Indicates that the -2 amendments (EXHIBIT A) and -4 amendments (EXHIBIT B) have been submitted for the committee's consideration.
018	Monty King	Oregon Independent Automobile Dealers Association (OIADA). Testifies in support of HB 2964 as amended by the -2 and -4 amendments (EXHIBIT C). Says the goal is to not prohibit someone from coming into Oregon and obtaining an automobile dealer license. Explains that there is currently no way to prevent someone whose dealer license was revoked in another state from obtaining an Oregon license. Suggests that revocation of a dealer license in another state should prompt refusal for licensure in Oregon.
040	Chair Witt	Requests an explanation of the amendments.
044	King	Explains that the -2 amendments change the word "shall" to "may." Indicates that the -4 amendments clarify that a dealer who is already licensed in Oregon will not have his their license revoked automatically if a dealer license in another state is revoked.

063	Chair Witt	Requests clarification regarding subsection (9) in the –4 amendments.
064	King	Replies that the subsection clarifies that operating a new lot under a different name requires a new license, but stipulates that the new license will not be subject to refusal as per the language of the bill.
074	Rep. Monnes-Anderson	Suggests that the subsection seems to imply that licensure revocation in California due to fraud will not disallow subsequent licensure in Oregon.
083	King	Clarifies that the protection provided by subsection (9) is only for those who already have license in Oregon at the time an out-of-state license is revoked. Says that in the hypothetical example offered by Rep. Monnes-Anderson a person seeking first-time licensure in Oregon after having their California license revoked would be refused.
096	Rep. Johnson	MOTION: Moves to ADOPT HB 2964-2 amendments dated 4/20/01.
098		VOTE: 8-0-3 EXCUSED: 3 - Bates, Devlin, Garrard Hearing no objection, declares the motion CARRIED.
099	Chair Witt Rep. Johnson	MOTION: Moves to ADOPT HB 2964-4 amendments dated 5/4/01.
100		VOTE: 8-0-3 EXCUSED: 3 - Bates, Devlin, Garrard Hearing no objection, declares the motion CARRIED.
102	Chair Witt Rep. Johnson	MOTION: Moves HB 2964 to the floor with a DO PASS AS AMENDED recommendation.
110		VOTE: 8-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Bates, Devlin, Garrard The motion CARRIES.
	Chair Witt	REP. V. WALKER will lead discussion on the floor.
117	Chair Witt	Closes the work session on HB 2964 and opens a work session on HB 2764.
<u>HB 2764 WORK SESSION</u>		
120	Dan Clem	Committee Administrator. Gives a brief description of the bill. Indicates that the committee has been provided with the –4 amendments (EXHIBIT D) and the –5 amendments (EXHIBIT E) for consideration. Describes the –4 and –5 amendments.
171	Rep. Walker	Asks how many people are exempted under the –4 amendments.
174	Clem	Estimates somewhere over 1,000 will be exempted, adding that the proponents of the –4 amendments will provide more accurate statistics.
180	John McCulley	Oregon Association of Mortgage Brokers (OAMB). Testifies in support of the –4 amendments to HB 2764. Says OAMB has worked toward a compromise with the mortgage bankers, and suggests that such a compromise has been reached through the –4 amendments. Indicates that the bill as amended by the –4 amendments affects fewer than 10 companies. Explains the exemptions in the bill. Says the amendments provide specific standards and audit requirements for the exemptions. Says the mortgage bankers will withdraw their opposition to the bill if the

–4 amendments are adopted.

215 Jim Markee Oregon Mortgage Bankers Association (OMBA). Testifies to a position of neutrality regarding the –4 amendments to HB 2764. Expresses opposition to the –5 amendments to HB 2764.

226 Rep. Krummel Requests an explanation of page 7, line 28 of the –4 amendments.

230 Markee Explains that language was part of the negotiation process between OMBA and OAMB. Says the –4 amendments remove some of the companies that were to be affected by the original bill, though there are a few “niche” companies that will still be affected.

251 Rep. Krummel Asks whether the director could exempt those listed in the –5 amendments.

257 Markee Replies that he is not qualified to answer that question.

264 Jim Krueger Mortgage Lender Program, Department of Consumer and Business Services (DCBS). Answers that the amendments provide authority for such exemptions, but says there would need to be some basis for doing so.

277 Rep. Carlson Asks whether the bill as amended with the –4 amendments will have a fiscal impact substantially different from the previous version.

286 Krueger Replies that the –4 amendments will have virtually the same fiscal impact as previous version, the –3. Says that the –5 amendments may have fiscal impact, as there will be more who are exempted from the fee requirements. Says he is not certain whether the reduction will result in FTE.

305 Rep. Carlson Asks whether the fee could be raised to compensate for revenues lost to the reduction in the number of people required to pay the fees.

308 Krueger Replies that it could.

310 Rep. Johnson Asks whether the bill has a subsequent referral to the Joint Committee on Ways and Means (W&M).

313 McCulley Says that the decision as to whether to send it there from here is up to the committee but says it will need to be referred to W&M eventually because of the fiscal impact.

321 Clem Estimates that the fiscal for the –4 amendments is similar to the –3 amendments, which has an estimated cost of \$156,856 for the 2001-2003 biennium and \$189,770 for the 2003-2005 biennium.

336 Chair Witt Expresses preference for sending the bill to the floor and having it referred to W&M once it reaches the Senate.

339 Rep. Johnson Disagrees respectfully.

345 Rep. Monnes-Anderson Asks whether the bill still accomplishes its goal if the exemptions are included.

356 McCulley Answers that the impact of the exemptions within the –4 amendments would not be as great as those in the –5 amendments, as the latter offer a greater number of exemptions.

372 Paul Cosgrove Primerica Financial Services Home Mortgages, Inc. Testifies in support of the –5 amendments to HB 2764. Describes the duties and activities of Primerica employees and indicates that some are currently required to hold multiple licenses. Says these employees are already subject to criminal background checks and other licensure requirements.

015	Chair Witt	Asks about continuing education requirements.
020	Cosgrove	Mentions that Primerica also requires many of the same types of continuing education. Explains that many insurers, bankers, and credit union employees are currently required to pay for and hold multiple licenses when one would be sufficient.
035	Rep. Walker	Notes that the fees cost only \$50 every two years.
037	Cosgrove	Mentions that the subsidiary in question has 1,200 employees that wrote a total of 400 mortgages, which calculates to \$150 in fees for every mortgage written.
049	McCulley	Expresses opposition to the –5 amendments on the basis of both the numbers of people exempted and the fact that many are not full-time participants in the mortgage industry. Says he is concerned that there are those who do not prepare mortgages full-time that are doing so without the benefit of proper training. Submits that those who do not meet the education and training requirements to be underwriters should not be treated as such.
077	Rep. Walker	Asks whether people who do not qualify would be subject to the bill.
081	Krueger	Offers the example of people who work as telemarketers for mortgage lenders and says such people could be considered subject to the bill.
096	Rep. Walker	Asks whether that problem could be addressed through additional amendments.
103	Krueger	Reiterates that the bill is acceptable so long as it actually addresses a problem. Concurs that there may be a way to address this issue through additional amendments.
110	Rep. Walker	Asks if the bill is adversely affected by the number of exemptions.
115	Krueger	Replies that the number of exemptions provided by the –4 amendments are not problematic, but says as many as 30 percent are exempted by the –5 amendments, which could be problematic.
132	Rep. Johnson	Expresses hope that the two sides can continue to work on a compromise on the measure. Emphasizes the need to find a middle ground that all sides can support.
140	McCulley	Asserts that the –4 amendments maintain the bill’s potency, while the –5 amendments weaken it too much.
159	Rep. Johnson	Wonders what is actually accomplished by the bill.
167	McCulley	Opines that the bill accomplishes a great deal.
172	Rep. Johnson	Responds that realtors disagree. Asserts that the bill requires further refinement, as there is little support for it within the industry.
181	McCulley	Counters that more than 100 individual realtors have voiced support for the measure, and says that the –4 amendments meet the Oregon Realtors Association (ORA) to find middle ground on the issue.
191	Rep. Bates	Asks whether there has been any instance of bad loans originated by Primerica.
196	Krueger	Answers that he is unaware of any complaints related to Primerica.
200	Rep. Bates	Asks Mr. Cosgrove whether the bill as amended by the –4 amendments would have any value at all.
209	Cosgrove	Explains how the registration process would continue under the bill as amended by the –4 amendments. Assures that loan

		origination is closely supervised, as it should be. Reiterates there is no need for a third redundant license.
235	Rep. Krummel	Says he follows the federal/state relation in the –4 amendments, but not in the –5 amendments. Disagrees with the assertion that licensure for one thing qualifies someone to do something else, offering the comparison between his athletic trainer preparation to Rep. Monnes-Anderson’s nursing preparation.
262	Cosgrove	Indicates that there are incongruities within the bill that are cleared up by the –5 amendments. Explains that in the original bill or the bill as amended solely by the –4 amendments, insurance agents working for brokers are covered, while insurance agents working for insurers are exempt.
283	Rep. Krummel	Expresses doubt as to the accuracy of Mr. Cosgrove’s analysis. Says that under the logic used by Mr. Cosgrove, an administrative secretary for the chief financial officer of a firm could write mortgage loans.
301	Cosgrove	Clarifies the exemptions language does not apply if an employee is performing duties they are not eligible to do. Says that insurers are exempt because the legislature has previously determined that certain financial institutions need not provide double registration. Reiterates that companies are liable for mistakes made by their employees.
343	Rep. Krummel	Asks whether language on page 1 exempts insurance agents.
358	Krueger	Replies that if the people in question meet the definition of mortgage banker then they would not be required to register or be licensed with DCBS. Says there are some who do not actually fund loans, but rather broker loans to other lenders, adding that these people would need to be licensed unless the –5 amendments are adopted.
376	Rep. Walker	Requests clarification as to whether loan originators are allowed to operate independently from mortgage lending firms.
390	Krueger	Replies that the industry prefers to handle loan originators as independent contractors, but says that the firm is still responsible for the actions of the originator.
401	Rep. Walker	Concludes that loan originators are required to partner with a broker of some sort.
407	Krueger	Concurs.
412	Rep. Walker	States that there is then some entity that provides oversight for every loan originator in the marketplace.
TAPE 138, B 006	Rep. Knopp	MOTION: Moves to ADOPT HB 2764-4 amendments dated 5/7/01.
010	Rep. Devlin	Expresses preference for the –5 amendments but acknowledges that there are insufficient votes on the committee to adopt them. Requests that the proponents of the –4 amendments work to have them adopted once the bill moves to the Senate.
014	Rep. Monnes-Anderson	Says she would like to see the exemptions process clarified so that those who would have been affected by the –5 amendments will be addressed.
020	Rep. Bates	Says he prefers the –5 amendments, as the bill as amended by the –4 amendments add an unnecessary bureaucratic layer. Indicates he will support the motion to move the bill as amended by the –4 amendments to the floor.
025	Rep. Johnson	Expresses opposition to the –4 amendments.

030 **VOTE: 7-3-1**
AYE: 7 - Brown, Carlson, Devlin, Knopp, Krummel, Monnes Anderson, Witt
NAY: 3 - Bates, Johnson, Walker V
EXCUSED: 1 - Garrard
Chair Witt
The motion CARRIES.

033 **Rep. Knopp** **MOTION: Moves HB 2764 to the floor with a DO PASS AS AMENDED recommendation.**

036 Rep. Walker Indicates she opposes the motion. Says the issues that have been discussed indicate a need to defer to an interim work group.

048 Rep. Krummel Supports the motion. Says that if insurers are exempt from mortgage banker licensing requirements then perhaps they should also be exempted from mortgage broker requirements.

068 Rep. Bates Says he will support the motion but will oppose the bill on the floor. Reiterates that the bill would be improved by adopting the –5 amendments.

073 Chair Witt Says he supports the motion to move the bill as amended by the –4 amendments. Notes that insurance agents have their own requirements and training needs and says this is similar. Mentions that the cost is covered by the fees built in to the measure. Asserts the bill will benefit consumers. Opines that the concerns raised by Mr. Cosgrove may or may not have merit.

108 **VOTE: 8-2**
AYE: 8 - Bates, Brown, Carlson, Devlin, Knopp, Krummel, Monnes Anderson, Witt
NAY: 2 - Johnson, Walker V
EXCUSED: 1 - Garrard
Chair Witt
The motion CARRIES.

110 Chair Witt **REP. WITT will lead discussion on the floor.**
Closes the work session on HB 2764 and opens a public hearing on HR 1.

HR 1 PUBLIC HEARING

111 Dan Clem Committee Administrator. Gives a brief description of the bill.

140 Dugan Petty Department of Administrative Services (DAS). Testifies in support of HR 1 (**EXHIBIT F**). Describes the changes that have occurred within the public purchasing process. Emphasizes the need to continue revising ORS 279

192 Mark Williams Assistant Attorney General for Business Transactions, Department of Justice (DOJ). Testifies in support of HR 1. States that it is difficult to interpret ORS 279 because it has become convoluted over the years. Indicates there are multiple definitions for several terms.

239 Williams Suggests that Attorney General’s Office should be involved in the rewrite process.

250 Bill Penhollow Association of Oregon Counties (AOC). Testifies in support of HR 1. Mentions that the last comprehensive rewrite of ORS 279 was performed in 1975, and that since then each legislature has modified various provisions of the public contracting statute. Submits that the rewrite effort should be continued and built upon. Indicates that the League of Oregon Cities (LOC) (**EXHIBIT G**) and the Special Districts Association (SDA) have

also expressed support for continuing the rewrite process. Lists the individuals who have participated in the rewrite process, both public and private.

315 Chair Witt Opines that the work group membership seems tilted toward the public sector.

318 Penhollow Concedes that was true in the beginning but says the group sought more input from the private sector as its work continued. Says private organizations were well represented in the discussions, albeit some more so than others.

348 Petty Says the work group understands the need to solicit the participation of all parties affected by the rewrite. Says it would be beneficial to bring in additional participants, such as representatives of suppliers.

378 Chair Witt Asks whether the work group's membership is open or statutorily defined.

382 Petty Replies it is open.

386 Chair Witt Wonders whether it might make more sense to mandate the numbers and specific people who should be involved as opposed to leaving membership open.

391 Petty Remarks that that approach proved to be problematic. Reiterates that the process should be open, with efforts to persuade all interested and affected parties to participate.

407 Chair Witt Asks whether there have been any other legislators involved besides former Representatives Larry Wells and Jane Lokan.

412 Penhollow Agrees that the process should be as collaborative as possible to keep down the fiscal impact associated with an interim committee.

TAPE 139, B

014 Chair Witt Asks how many of the work group's proposals have become law.

016 Petty Replies that three of four from the 1997-1998 interim became law in 1999, while two from the 1999-2000 have been passed this session.

026 Chair Witt Agrees that the complexity of ORS 279 requires more in-depth analysis.

030 Petty Says there is a broad group of stakeholders.

040 Jessica Harris Associated General Contractors (AGC). Testifies in support of HR 1 (**EXHIBIT H**) and submits a list of rewritten definitions (**EXHIBIT I**) that was developed by the work group during the 1999-2000 interim. Asserts that the discussions regarding public contracting that have come before the committee this session are indicative of the need for a comprehensive rewrite.

086 Rep. Carlson Requests assurance that a diverse group of interests will be involved.

089 Harris Replies that having such a diverse group is the only way to ensure that the process will be successful and meaningful.

095 Chair Witt Closes the public hearing and opens a work session on HR 1.

HR 1 WORK SESSION

100 **Rep. Johnson**

MOTION: Moves HR 1 be sent to the floor with a BE ADOPTED recommendation.

107 **VOTE: 6-0-5**

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

EXCUSED: 5 - Bates, Devlin, Garrard, Krummel, Walker

Chair Witt

The motion CARRIES.

115 Rep. Knopp **MOTION: Moves HR 1 be placed on the Consent Calendar for floor consideration.**
120 **VOTE: 6-0-5**
Chair Witt **EXCUSED: 5 - Bates, Devlin, Garrard, Krummel, Walker**
121 Chair Witt **Hearing no objection, declares the motion CARRIED.**
Closes the work session on HR 1 and opens a public hearing on HJM 17.

HJM 17 PUBLIC HEARING

123 Mark Hellman Public Utilities Commission (PUC). Testifies in support of HJM 17. Indicates he is unsure whether the measure applies to other states besides Oregon. Opines that if the federal government orders utility companies to send power it could be to other states. Wonders why the phrase "or a state of this union" is used.
138 Chair Witt Recommends that the language be removed.
160 Hellman Clarifies that there is a conceptual amendment that will be considered once the bill moves to work session.
165 Chair Witt Mentions that the Bonneville Power Administration (BPA) was directed to sell surplus power to California, despite the large outstanding debt owed to them. Says customers in the Northwest would be required to pay higher rates to make up for the power sold to California.
170 Hellman Requests clarification as to whether there was an agreement that California would provide surplus power back when it became available during non-peak times.
182 Chair Witt Answers that there were two-for-one power exchanges and also payment.
186 Hellman Submits that the issue is beyond the scope of this measure.
191 Chair Witt Closes the public hearing and opens a work session on HJM 17.

HJM 17 WORK SESSION

215 Rep. Knopp **MOTION: Moves to AMEND HJM 17 on page 1, in line 19, after ""The United States of America"," delete "", or a state of this union,"".**
222 **VOTE: 6-0-5**
Chair Witt **EXCUSED: 5 - Bates, Devlin, Garrard, Krummel, Walker**
227 Rep. Knopp **Hearing no objection, declares the motion CARRIED.**
MOTION: Moves HJM 17 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
232 **VOTE: 6-0-5**
Chair Witt **AYE: In a roll call vote, all members present vote Aye.**
EXCUSED: 5 - Bates, Devlin, Garrard, Krummel, Walker
The motion CARRIES.
REP. KNOPP will lead discussion on the floor.
240 Chair Witt Closes the work session on HJM 17 and adjourns the meeting at 5:20 p.m.

Submitted By,

Reviewed By,

Patrick Brennan,
Committee Assistant

Dan Clem,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 2964, -2 amendments, staff, 1 p.**
- B – HB 2964, -4 amendments, staff, 1 p.**
- C – HB 2964, testimony, Monty King, 5 pp.**
- D – HB 2764, -4 amendments, staff, 17 pp.**
- E – HB 2764, -5 amendments, staff, 17 pp.**
- F – HR 1, testimony, Dugan Petty, 5 pp.**
- G – HR 1, testimony, Joe Schweinhart, 1 p.**
- H – HR 1, testimony, Jessica Harris, 1 p.**
- I – HR 1, definitions, Jessica Harris, 8 pp.**