

HOUSE COMMITTEE ON AGENCY PERFORMANCE & OPERATIONS

March 04, 1999 Hearing Room E

8:40 a.m. Tapes 31-32

MEMBERS PRESENT: Rep. Jane Lokan, Chair

Rep. Betsy Close

Rep. Tim Knopp

Rep. Jeff Kruse

Rep. Bob Montgomery

MEMBER EXCUSED: Rep. Kathy Lowe, Vice-Chair

Rep. Dan Gardner

Rep. Kitty Piercy

STAFF PRESENT: Pat Zwick, Administrator

Susan M. Pettey, Administrative Support

MEASURES HEARD: HB 2166 Public Hearing

HB 2097 Public Hearing and Work Session

HB 2098 Public Hearing and Work Session

HB 2212 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.

TAPE/#	Speaker	Comments
TAPE 31, A		
004	Chair Lokan	Opens the meeting at 8:40 a.m., and opens public hearing on HB 2166.

HB 2166 PUBLIC HEARING

033	Pat Zwick	Committee Administrator. Summarizes provisions of HB 2166.
047	Rep. Montgomery	Asks if HB 2166 is at the Governor's request.
051	Chair Lokan	Responds affirmatively.
058	Al Nunez	Governor's Office. Speaks in support of HB 2166. Submits and summarizes written testimony (EXHIBIT A). Highlights the following: <ul style="list-style-type: none">• HB 2166 promotes small business• HB 2166 is race and gender neutral• HB 2166 is aimed at increasing the amount of contracting by public agencies with small business
101	Rep. Montgomery	Asks if the Governor worked on this bill with Mr. Nunez.
108	Nunez	Answers yes.
115	Cindy Catto	Associated General Contractors (AGC). Speaks in support of HB 2166. Submits and summarizes written testimony (EXHIBIT B). Describes the AGC function. Comments on the essential components of sheltered market programs: <ul style="list-style-type: none">• Tailored programs• Education program, including graduation.• City of Portland Program.
161	Rep. Montgomery	Asks if the AGC would set up a program to help business people. Asks why it is necessary for the government to set up programs. Adds that we need fewer programs.
179	Catto	Believes it is not AGC responsibility to train people in a program that has been carved out of the free market system. Explains that if the government is going to sponsor and set aside contracts, they have a responsibility to also provide training.
189	Rep. Montgomery	Remarks that his question was not answered.
192	Catto	Discusses the following issues with HB 2166: <ul style="list-style-type: none">• No requirement for business education for emerging small businesses (ESBs), to increase the opportunity for success• \$500,000 contract limit is too high; prefers a limit of \$200,000

239	Chair Lokan	Asks if HB 2166 contains a performance bond requirement.
243	Catto	Believes the performance bond can be waived by the public agency. Explains differences between a performance bond requirement and payment bond. States that AGC does not want to be perceived as obstructionists, but rather advocates for the small construction business. Adds that the mentor program is well understood within the industry.
283	Rep. Montgomery	Asks for the definition of an ESB.
293	Catto	Explains that an ESB has revenues of less than \$1 million per year, and qualifies for certification for seven years.
299	Rep. Montgomery	Comments that seven years is a long time.
302	Chair Lokan	Asks if City of Portland and Multnomah County programs are under the same statutes and definition of an ESB.
308	Catto	Responds that they have chosen to more clearly define how long a business can be in the program. Adds that a participating ESB can petition to stay in the program longer.
362	Catto	Explains that an ESB can be terminated from participation in Portland and Multnomah Co. if earnings exceed \$1 million per year. Requires posting of payment and performance bonds.
402	Chair Lokan	Closes public hearing on HB 2166, and opens public hearing on HB 2097.
<u>HB 2097 PUBLIC HEARING</u>		
425	Zwick	Summarizes provisions of HB 2097.
453	Jan Sullivan	Director, Corporation Division, Office of the Secretary of State. Speaks in support of HB 2097. Submits and summarizes written testimony (EXHIBIT C).
TAPE 32, A		
042	Sullivan	Explains that under HB 2097, the Division will not refund the \$10 filing fee when a financing statement is rejected. Explains reasons for rejection.
073	Sullivan	Explains document processing time and expense required when rejecting and refunding an incorrect document.

091	Rep. Montgomery	Asks if the Division currently has authority to refuse to refund the filing fee if a document is rejected.
104	Sullivan	Replies that currently, the filing fee is refunded.
108	Rep. Montgomery	Asks why a filing might be rejected.
110	Sullivan	Gives examples of reasons for document rejection.
127	Chair Lokan	Comments that the language in HB 2097 is definite. Refers members to page 2, section 1, line 24. Reads, referring to "shall be" and "may be," and asks if this provides latitude.
139	Sullivan	Explains that the agency is willing to work with customers to get the document filed.
145	Rep. Kruse	Suggests that the legislative members should be the first to know if Corporation Division is being too draconian with the new change.
153	Rep. Knopp	Asks if the application states that fees are nonrefundable. Suggests if HB 2097 passes, the application state what is or is not refundable.
157	Sullivan	Expresses approval of that suggestion.
163	Rep. Knopp	Adds that the public has the right to know that the filing fee is nonrefundable.
169	Sullivan	Explains that Corporation Division wants to educate customers and will work with them. Indicates that this information will be on the website.
174	Chair Lokan	Asks if the change of forms requires any fiscal impact.
179	Sullivan	Expects a savings of \$65,000 per biennium. Explains the refund process.
188	Chair Lokan	Asks about printing new forms.
198	Sullivan	Responds that forms are on the internet, and automated voice response system. Indicates that the forms are faxed, not printed. Expects a very small fiscal impact.
225	Chair Lokan	Closes public hearing on HB 2097, and opens work session.
<u>HB 2097 WORK SESSION</u>		

241	Rep. Kruse	MOTION: Moves HB 2097 to the floor with a DO PASS recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 ñ Gardner, Lowe, Piercy
	Chair Lokan	The motion CARRIES. REP. CLOSE will lead discussion on the floor.

263 Chair Lokan Closes work session on HB 2097, and opens public hearing on HB 2098.

HB 2098 PUBLIC HEARING

274 Zwick Explains provisions of HB 2098.

302 Sullivan Speaks in support of HB 2098. Submits and summarizes written testimony **(EXHIBIT D)**. Describes how HB 2098 changes current law.

318 Chair Lokan Asks if the Division can provide an original document copy to a customer.

320 Sullivan Responds affirmatively.

328 Chair Lokan Closes public hearing on HB 2098, and opens work session.

HB 2098 WORK SESSION

350 Rep. Kruse **MOTION: Moves HB 2098 to the floor with a DO PASS recommendation.**

VOTE: 5-0

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

EXCUSED: 3 - Gardner, Lowe, Piercy

Chair Lokan

The motion CARRIES.

REP. KNOPP will lead discussion on the floor.

369 Chair Lokan Closes work session on HB 2098, and opens public hearing on HB 2212.

HB 2212 PUBLIC HEARING

380 Zwick Summarizes provisions of HB 2212.

398 Sullivan Speaks in support of HB 2212. Submits and summarizes written testimony **(EXHIBIT E)**. States that HB 2212 standardizes and simplifies business registration fees in the Corporation Division. Establishes a nonrefundable \$20 fee for each document delivered to the division relating to business registry functions.

417 Sullivan Indicates that HB 2212 would remove fee confusion and move toward a more citizen-friendly agency, and electronic filing.

TAPE 31, B

033 Chair Lokan Asks about the \$2 fee for county filings.

038 Sullivan Explains the proposed fee schedule.

062 Sullivan Estimates that \$10 million will be transferred to the general fund this biennium from the Corporation Division. Explains that the new fee schedule becomes effective July, 2001.

070 Chair Lokan Addresses fiscal impact. Asks how often reconciliation takes place.

077 Sullivan Speculates it happens on an annual basis.

099 Chair Lokan Asks for clarification of intent.

101 Sullivan Explains that Corporation Division tries to estimate the necessary fee based on the number of filings received. Indicates that the reserve dropped to \$157,000 when the fee was reduced to \$10. Adds that current statute requires \$500,000 be in the operating account at all times.

108 Rep. Kruse Comments that \$15 will provide solvency, but with \$20 in statute, the agency can to go that limit if necessary.

113 Chair Lokan Asks if fees are set in statute or rules.

115	Sullivan	Responds that all fees are set in statute. Adds that information provided to customers is charged at cost, set by administrative rule.
124	Chair Lokan	Asks for clarification of Section 6(1).
133	Sullivan	Explains that that subsection refers to agency error.
139	Chair Lokan	Asks about additional charges to the customer if a mistake is made by the agency.
141	Sullivan	Indicates there is no additional charge to the customer.
144	Rep. Close	Asks why statutory fee amounts vary.
148	Sullivan	Explains fee differentials.
157	Rep. Knopp	Asks how many foreign entities have filings with the Corporation Division.
161	Sullivan	Replies that she can provide that information.
165	Rep. Knopp	Wants to know why fees are set at \$440 for foreign filings. Indicates he is not interested in moving foreign filings to \$20, allowing Oregon businesses to subsidize foreign corporations.
172	Sullivan	Replies she will provide that information.
176	Rep. Kruse	Asks if true costs for filings are the same for foreign entities as Oregon companies.
181	Sullivan	Explains that currently there are 13,991 foreign corporations in the database.
193	Rep. Montgomery	Asks for definition of foreign corporation.
199	Sullivan	Includes other-country and out-of-state registrations.
203	Chair Lokan	Addresses \$5 million negative fiscal impact in the 99-01 biennium.
220	Sullivan	Explains fiscal statutory requirement to have a \$500,000 balance in the operating account. Comments that under the new proposal, this requirement goes away.
224	Chair Lokan	Asks for current account balance.
227	Sullivan	After expenditures are paid, with retention of the \$500,000 minimum, the balance is then forwarded to the general fund.

233	Chair Lokan	Invites Dallas Weyand, Legislative Fiscal Office (LFO), to testify. References HB 2212, Section 23.
241	Dallas Weyand	LFO. Explains that the fiscal impact is based on the estimate in the current budget before the Legislature. Comments on budgeted revenues to the general fund. Expounds on the fiscal impact.
271	Weyand	Explains that currently the Ways & Means Committee is looking at existing resources of the general fund in consideration of the budget. Explains that this reduction has not yet been considered.
277	Chair Lokan	Indicates that if \$5 million is included, the date must be amended in Section 23.
284	Weyand	Discusses effective date that would no longer require transfer to the general fund. Explains budgeted transfers to the general fund.
295	Chair Lokan	Asks where the \$5 million would be placed prior to the effective date.
308	Sullivan	Replies that it would be placed in the general fund account.
311	Chair Lokan	Asks for the agency objective in retaining such a large reserve account under HB 2212.
315	Sullivan	Explains that the money accumulates in the operating account to pay monthly expenditures. Indicates that the fee can be adjusted to lower the amount. Adds that the \$20 fee was chosen to ensure sufficient revenue. Remarks that excess funds can be transferred to the general fund.
326	Rep. Kruse	Asks if Corporation Division anticipates a large revenue generation.
332	Sullivan	Expects \$4.6 million, based on the number of current filings.
336	Rep. Kruse	Comments that projection is based on the \$20 figure. Asks if Corporation Division anticipates long-term massive accumulation of funds in the account.
342	Sullivan	Explains that if a large amount is accumulated, the agency will come back to the legislature saying, we have more money. Discusses the option of amending HB 2212.
351	Rep. Kruse	Comments that the fee can be reduced to \$10 without legislative approval.
355	Sullivan	Indicates that the Corporation Division can lower the fee.
359	Chair Lokan	Asks if problems would be created if the effective date is the same as the date the new fees are created.

364	Sullivan	Indicates that there is no problem.
368	Chair Lokan	Comments on the large turnover of legislators with term limits. Asks about legislative oversight.
384	Sullivan	Opines that if the agency is in trouble with revenue, the legislature would know about it. Indicates that a report could be provided to members advising how HB 2212 is working.
419	Rep. Montgomery	Commends Corporation Division for coming to the body and wanting to lower fees.
434	Sullivan	Indicates that the agency wants to streamline fees.
445	Rep. Montgomery	Comments on term limits.

TAPE 32, B

039	Sullivan	Discusses standardization of fees.
042	Chair Lokan	Wants committee to know she is not against raising fees. Indicates that four or five million sitting in a reserve account could be used for better purposes in this biennium.
054	Chair Lokan	Closes public hearing on HB 2212, and opens work session.

HB 2212 WORK SESSION

058	Rep. Kruse	Expresses concern over the disparity in dates. Asks if Chair Lokan is interested in a conceptual amendment.
060	Chair Lokan	Refers members to Section 23, pg 14, line 5. Suggests leaving the balance of the text as-is, but "to become operative July 1, 2001."

066	Rep. Kruse	MOTION: Moves to CONCEPTUALLY AMEND HB 2212, on page 14, in line 5, after "July 1," delete "2000," and insert "2001".
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VOTE: 5-0

EXCUSED: 3 - Gardner, Lowe, Piercy

Chair Lokan	Hearing no objection, declares the motion CARRIED.
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071	Rep. KRUSE	MOTION: Moves HB 2212 as CONCEPTUALLY AMENDED to the floor with a DO PASS AS AMENDED recommendation.
075	Rep. Close	Asks to have the amendment read.
078	Chair Lokan	Reads the amendment.
080	Zwick	Explains the intent of the amendment. Indicates Legislative Counsel will provide amending language.
087	Rep. Knopp	Expresses support of HB 2212 as amended.
095	Rep. Montgomery	Suggests contact with "budget people" to see if this is workable.
099	Sullivan	Comments that the date change to July 1, 2001, leaves no reserve in the operating account to begin the next biennium.
111	Chair Lokan	Clarifies amendment language.
113	Rep. Kruse	Indicates that the current minimum operating account balance is \$500,000, and the current language leaves it in place through June 30, 2001.
128	Weyand	Explains the fiscal consequences of the amendment to HB 2212.
136	Rep. Montgomery	Asks if the funds automatically forward to the general fund on July 1, 2001.
141	Weyand	Indicates that is something that will be under consideration in budget hearings for the 2001-03 biennium. Notes that the funds could be set aside and made part of that budget.
151	Rep. Montgomery	Suggests reconsideration next week. Favors correcting the technicality before sending HB 2212 to the floor.
156	Chair Lokan	Agrees with Rep. Montgomery.
163	Rep. Kruse	MOTION: Moves to WITHDRAW motion to move HB 2212 as conceptually amended to the floor with a do pass as amended recommendation.

VOTE: 5-0

EXCUSED: 3 - Gardner, Lowe, Piercy

Chair Lokan

Hearing no objection, declares the motion CARRIED.

170

Chair Lokan

Closes work session on HB 2212. Adjourns meeting at 10:20 a.m.

Submitted By, Reviewed By,

Susan M. Pettey, Pat Zwick,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2166, written testimony, Al Nunez, 2 pp.

B ñ HB 2166, written testimony, Cindy Catto, 1 p.

C ñ HB 2097, written testimony, Jan Sullivan, 2 pp.

D ñ HB 2098, written testimony, Jan Sullivan, 4 pp.

E ñ HB 2212, written testimony, Jan Sullivan, 6 pp.