

HOUSE COMMITTEE ON AGENCY PERFORMANCE & OPERATIONS

April 27, 1999 Hearing Room E

8:00 a.m. Tapes 62 - 65

MEMBERS PRESENT: Rep. Jane Lokan, Chair

Rep. Kathy Lowe, Vice-Chair

Rep. Betsy Close

Rep. Dan Gardner

Rep. Tim Knopp

Rep. Jeff Kruse

Rep. Kitty Piercy

MEMBER EXCUSED: Rep. Bob Montgomery

STAFF PRESENT: Pat Zwick, Administrator

Susan M. Pettey, Administrative Support

MEASURES HEARD: HB 2876 Public Hearing

HB 3581 Work Session

HB 3170 Public Hearing

HB 3409 Public Hearing

HB 3182 Public Hearing

HJR 34 Public Hearing

HB 3582 Public Hearing

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 62, A		
004	Chair Lokan	Opens the meeting at 8:15 a.m., and opens the public hearing on HB 2876.
<u>HB 2876 PUBLIC HEARING</u>		
032	Chair Lokan	Closes public hearing on HB 2876, and opens work session on HB 3581.
<u>HB 3581 WORK SESSION</u>		
041	Pat Zwick	Committee Administrator. Explains provisions of HB 3581-1 (EXHIBIT A), and -2 amendments (EXHIBIT B).
070	Chair Lokan	Suggests the amendments be explained section-by-section.
075	Zwick	Complies with Chair Lokan's suggestion.
093	Rep. Piercy	Refers to HB 3581, Section 10. Asks why language is changed from "allows" to "requires."
101	Charles Stern	Yamhill County Clerk. Responds that Legislative Counsel created the language.
119	Zwick	Continues discussing HB 3581-1 proposed amendments section-by-section.
132	Chair Lokan	Asks for clarification of Chapter 205.
134	Stern	Responds that Chapter 205 discusses the authority and duties of county clerks.
155	Rep. Piercy	Asks for an explanation of how Section 16 changes current practice.
159	Stern	Indicates that deed records have always been public records, and are now available to the public.
170	Zwick	Continues discussion of 11 proposed amendments.
180	Chair Lokan	Refers to Section 18. Asks if a certified copy recorded in one county can also be recorded in another.

185	Stern	Explains that in current law, a certified copy has the same standing in court as the original.
197	Zwick	Continues discussion of ñ1 proposed amendments.
202	Chair Lokan	Refers to Section 22. Asks if the \$5 per page fee is the current charge for filing transactions.
210	Stern	Explains that this \$5 fee is currently charged for multiple transactions.
225	Rep. Lowe	Asks what has happened historically.
227	Stern	Indicates there was no authority for multiple transactions on a single sheet.
230	Zwick	Continues discussion of amendments.
245	Rep. Lokan	Refers to Section 23. Asks if the extension is the only extension in HB 3581.
252	Stern	Responds affirmatively.
259	Chair Lokan	Asks if Section 24 establishes a new fee.
263	Stern	Answers no. Explains this allows the county clerk to deduct five percent of any fee or tax, to be used for acquiring storage/retrieval systems, administrative costs, and maintaining and restoring records.
271	Rep. Lowe	Asks how much money will be taken from the Corner Fund.
274	Stern	Responds that it is not taken from the Corner Fund. Explains that in some counties, the Corner Fund is paying 10% and higher fees to the clerk for collection and support. Adds that this varies from county to county.
286	Rep. Lowe	Asks if surveyors support this change.
292	Stern	Describes discussions with county surveyors, and Professional Land Surveyors of Oregon.
325	Chair Lokan	Asks if the acquisition of storage/retrieval systems is expensive.
333	Stern	Answers that the cost will vary from county to county. Indicates that Clackamas County is raising significant money. Indicates that 47% of filings occur in the tri-county area.

357	Rep. Lowe	Asks if this source of funds will be continuing, and allow for upgrading technology.
377	John Kaufmann	Clackamas County Clerk. Expects the fund to be ongoing. Describes the development and implementation of an imaging system in the recording office.
401	Rep. Lowe	Asks if the imaging system is secure.
403	Kaufmann	Responds yes. Adds that the imaging system will be on the county intranet only.
415	Zwick	Reads Section 25.
418	Chair Lokan	Asks why an additional recording fee is imposed.
421	Stern	Answers that it is not an additional recording fee. Clarifies that the governing body sets the fees for the surveyor for marking affidavits at a fee of \$5.
452	Zwick	Indicates that Sections 30 through 38 subject the Mineral and Mining Record statutes to the \$5 per page fee. Comments that Section 39 repeals various statutes.
472	Chair Lokan	Refers to Sections 30-38. Asks if the \$5 fee per page is new.
476	Stern	Replies that it is not a new fee. Explains the change is in Section 35 of HB 3581, allowing recording of additional claims at 50 cents per claim.
506	Chair Lokan	Observes that if additional claims are included, the \$5 fee per page applies, not 50 cents per claim.
509	Stern	Agrees with Chair Lokan.
TAPE 63, A		
061	Kaufmann	Speaks in support of HB 3581-1 amendments. Describes agreement between the Oregon Association of County Clerks and the Association's legislative committee.
065	Rep. Lowe	Asks if concern has been expressed regarding the multiple filings fee structure.
068	Stern	Indicates the fee structure has been rephrased, but the fee remains \$5 per page. Explains the fee structure for multiple transactions. Explains changes to Section 22.

078	Rep. Lowe	Clarifies that she is speaking about Mineral and Mining.
082	Stern	Indicates that no concerns have been expressed to him.
085	Kaufmann	Refers to Mineral and Mining. Expects little impact in Clackamas County. Expounds on multiple transaction filings.
107	Rep. Lowe	Discusses the importance of maintaining the integrity of corner markers.
128	Rep. Lowe	MOTION: Moves to ADOPT HB 3581-1 amendments dated 04/20/99.
		VOTE: 7-0 EXCUSED: 1 - Rep. Montgomery
Chair Lokan		Hearing no objection, declares the motion CARRIED.
132	Rep. Lowe	MOTION: Moves to ADOPT HB 3581-2 amendments dated 04/21/99.
		VOTE: 7-0 EXCUSED: 1 - Rep. Montgomery
Chair Lokan		Hearing no objection, declares the motion CARRIED.
135	Rep. Lowe	MOTION: Moves HB 3581 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. Montgomery
Chair Lokan		The motion CARRIES.

		REP. LOWE will lead discussion on the floor.
165	Chair Lokan	Closes work session on HB 3581, and opens public hearing on HB 3170.
<u>HB 3170 PUBLIC HEARING</u>		
172	Zwick	Summarizes provisions of HB 3170.
186	Rep. Bill Witt	House District 7. Sponsor of HB 3170. Submits and summarizes written testimony (EXHIBIT C). Describes proposed changes to public contracting laws.
222	Rep. Witt	Refers to HB 3170, Section 1. Indicates that in HB 3170, Section 1, the primary purchasing criteria is price, and requires sealed bids for all purchases exceeding \$5,000. Adds that he is willing to consider raising that amount to \$15,000 or \$20,000. Adds that HB 3170 accomplishes the following: <ul style="list-style-type: none"> • Requires notice and public hearing to exempt a purchase from bid statutes • Allows a bidder to submit cashier's check instead of a surety bond. • Limits the forfeiture of bid security • Limits reasons public agencies can reject bids • Expands disqualification appeal from 3 days to 10 days
263	Rep. Witt	Indicates that Section 12 allows for appeal to circuit court on an adverse ruling disqualifying a bidder. Comments that Section 13 allows a bidder to seek damages, including lost profits, for unlawful disqualification.
311	Rep. Witt	Speaks in support of HB 3170-1 amendments.
328	Rep. Piercy	Asks where quality enters into this discussion.
332	Rep. Witt	Answers, in the written specifications.
360	Rep. Close	Asks if sealed bids are expensive and time consuming.
364	Rep. Witt	Replies that this is true.
382	Rep. Lowe	Expresses concern about allowing a disappointed bidder to have wide-open access to the court system. Comments on trial expense. Indicates HB 3170 applies to all public bidding. Asks if it precludes a municipality from making a policy decision to allow projects by a qualified non-profit rehabilitation organization at a competitive price.

435	Rep. Witt	Indicates that HB 3170 attempts to set up a remedy and create accountability for public contracting agencies to comply with the law. Describes access to the court system as a basic function of our system of government. Addresses lost profits. Believes that there is no enforcement of accountability, because under current law, only the cost of preparing the bid can be recovered.
471	Rep. Witt	Explains that the elimination of affirmative action relative to contracting will be removed from HB 3170.
490	Rep. Gardner	Asks how many contracts will be affected in the State of Oregon.
494	Rep. Witt	Responds, thousands.
TAPE 62, B		
042	Rep. Gardner	Asks about bidding statute disqualifications.
058	Rep. Witt	Provides examples of disqualifications.
066	Rep. Knopp	Asks for clarification of HB 3170-1 amendments (EXHIBIT D).
075	Rep. Witt	Indicates that Shawn Miller will address the proposed amendments. Discusses claims made by public agencies that HB 3170 will increase costs.
101	Rep. Knopp	Observes that the only additional cost is through the sealed-bid process.
107	Rep. Witt	Indicates in some cases, HB 3170 requires a hearing and public findings. Adds that it potentially could increase some costs. Supports a decision-making public contracting system that is fair and not arbitrary.
122	Shawn Miller	Associated Builders and Contractors. Speaks in support of HB 3170. Describes conversations with city and state officials regarding concerns about HB 3170.
148	Miller	Addresses HB 3170-1 amendments. Refers to arbitrary rejection of bidders. Discusses mandatory hearings for bid rejection.
182	Miller	Indicates that the amendments will cause HB 3170 to change substantially.
191	Chair Lokan	Refers to HB 3170-1 amendment, page 5, line 16. Asks if "rejected" should be inserted before "bidder".
198	Miller	Responds affirmatively.

227	Darin Matthews	Manager, Procurement Division, City of Portland Bureau of Purchases; President, Oregon Public Purchasing Association. Speaks in opposition to HB 3170. Submits and summarizes written testimony (EXHIBIT E).
248	Matthews	Expresses concern with the following items: <ul style="list-style-type: none"> • Sealed bids required for contracts over \$5,000 • Public hearing on products and bid rejection • Right to reject all bids • Bid security limitations • Contractor disqualification • Recovery of lost profits • Affirmative action
309	Rep. Kruse	Comments that this discussion may be premature until further amendments are presented and reviewed.
325	Rep. Lokan	Agrees with Rep. Kruse
342	Dugan Petty	Manager, State Purchasing, Department of Administrative Services; Transportation, Purchasing, and Publication Services Division. Speaks in opposition to HB 3170. Submits and summarizes written testimony (EXHIBIT F). Indicates that HB 3170 will result in: <ul style="list-style-type: none"> • Less effective procurements • Higher administrative costs • Greater risk of damages awarded to contractors • The undermining of affirmative action programs in contracting.
403	Peter Grundfossen	Association of Housing Authorities. Opposes HB 3170 in its present form.
408	Chair Lokan	Closes public hearing on HB 3170, and opens public hearing on HB 3409.
<u>HB 3409 PUBLIC HEARING</u>		
462	Zwick	Summarizes provisions of HB 3409.
485	Rep. Jerry Krummel	House District 27. Sponsor of HB 3409. Explains that the purpose of this bill is to allow the actual budget from one biennium to the next to be placed side-by-side. Adds that it requires the Governor to show enhancement in each part of the budget and to show the nexus of the expenditure to the benefit derived.
TAPE 63, B		
043	Rep. Krummel	Refers to HB 2411 as a companion bill that will allow the legislature to develop reserves. Points out that under HB 3409, there will be no assumption of automatic budgetary increase.

070	Rep. Lokan	Asks for clarification of enhancements.
078	Rep. Krummel	Comments that the actual current service is budgeted during that biennium. Explains add-ons, such as cost of living.
090	Rep. Lokan	Asks if the plan is to begin with current biennium dollars for enhancements.
099	Rep. Krummel	Answers yes.
108	Rep. Lokan	Asks if this will begin with the programs that were identified for this biennium.
110	Rep. Krummel	Answers yes.
133	Rep. Kruse	Asks, why not a zero base.
136	Rep. Krummel	Discusses political realities. Refers to HB 2511. Comments on reserves. Adds that HB 3409 and HB 2511 create an effective budget system.
162	Rep. Kruse	Expresses concern with current program funding and full-time employees (FTEs).
179	Rep. Krummel	Addresses funded programs.
188	Rep. Jeff Kropf	House District 37. Speaks in support of HB 3409. Submits handout (EXHIBIT G) . Suggests that at the beginning of every session year, the state budget should be published in statewide newspapers, based on the format proposed under HB 3409. Explains that the purpose of (EXHIBIT G) is to allow the taxpayers to see how dollars are being spent.
218	Chair Lokan	Asks if this can be accomplished without a fiscal impact.
222	Rep. Kropf	Anticipates the fiscal impact will be \$50,000, based on how many newspapers the information is published in.
228	Rep. Gardner	Asks if this information will be on the front page of the newspaper.
231	Rep. Kropf	Comments that would be too expensive.
244	Chair Lokan	Closes public hearing on HB 3409, and opens public hearing on HB 3182.
<u>HB 3182 PUBLIC HEARING</u>		

262	Zwick	Summarizes provisions of HB 3182.
266	Rep. Ben Westlund	House District 55. Sponsor of HB 3182. Discusses differences between HB 3182 and HB 3409.
303	Rep. Lokan	Asks if Ways & Means will be involved.
305	Rep. Westlund	Responds that there is no requirement to involve Ways & Means. Comments that the 10% austerity budget will be presented to the Speaker of the House and the Senate President. Requires agencies to prioritize cutbacks.
324	Rep. Lokan	Asks if the 10% austerity cut is in current statute.
329	Rep. Westlund	Answers no. Indicates he would support an amendment, at line 43, page 2, with language stating "shall provide to Senate President and Speaker of the House." Believes it is unnecessary to publish the austerity budget.
346	Rep. Kruse	Comments that if the information is published, it is more accessible to all members of the legislature. Prefers the language remain.
359	Rep. Lowe	Suggests a requirement that the information be provided to the legislative body.
362	Rep. Westlund	Replies this would not be a problem.
368	Chair Lokan	Asks if HB 3409 and HB 3182 are two separate bills.
371	Rep. Westlund	Indicates that HB 3182 is a reporting procedure, and a dissemination of information bill. Describes HB 3409 as a budgeting process bill.
383	Rep. Kruse	Comments that both bills have merit and could stand on their own. Supports Rep. Lowe's suggestion that information be provided to the legislative body.
409	Chair Lokan	Closes public hearing on HB 3182, and opens a work session.
<u>HB 3182 WORK SESSION</u>		
425	Rep. Kruse	Comments that if the requirement for publishing is removed, the cost is decreased, but the information is provided to the legislative body.
441	Rep. Westlund	Agrees with this.
456	Rep. Lowe	Asks how the 10% austerity figure was decided.

463	Rep. Westlund	Responds that this is a figure that is currently reported to the Executive Office by various agencies. Discusses the austerity budget concept.
TAPE 64, A		
044	Rep. Lowe	Asks why it is good public policy to bring this planning tool into public discussion.
058	Rep. Westlund	Explains that the Governor, who receives this information presently, publishes a budget; the legislature approves the budget and should have access to the information.
069	Chair Lokan	Asks Rep. Westlund to consider an appropriate amendment.
072	Rep. Westlund	Comments that the amendment could say, "shall provide to Senate and House leadership of both parties," as opposed to "shall publish."
075	Chair Lokan	Agrees with this.
080	Rep. Westlund	Suggests the amendment could be adopted conceptually.
085	Rep. Gardner	Favors a Legislative Counsel draft.
096	Chair Lokan	Closes the work session on HB 3182, and opens the public hearing on HJR 34.
<u>HJR 34 PUBLIC HEARING</u>		
109	Zwick	Explains provisions of HJR 34.
129	Rep. Bill Morrisette	House District 42. Sponsor of HJR 34. Submits and summarizes written testimony (EXHIBIT H). Indicates that HJR 34 proposes an interim study of Florida's performance-based budgeting system for possible adoption in Oregon. Adds that HJR 34 prohibits substituting activities for outcomes.
168	John Lattimer	Director, Audits Division, Secretary of State. Addresses budget reform. Indicates that budgets require accountability. Comments that HJR 34-1 amendments (EXHIBIT I) provide an opportunity to observe performance-based budgeting.
225	Lattimer	Discusses the placement of infrastructure for auditing purposes.
231	Rep. Close	Asks who appoints the Joint Legislative Audit Committee.

235	Lattimer	Answers that statute provides that the co-chairs of Ways & Means Committee are ex-officio members. Adds that the leadership then appoints members.
241	Rep. Close	Asks if co-chairs are voting members.
245	Lattimer	Answers yes, by virtue of their position.
248	Rep. Kruse	Expresses appreciation of the concept of HJR 34. Indicates concern because HJR 34 is entirely internal.
259	Rep. Morrisette	Indicates that HJR 34 is a beginning. Adds that internal auditors are independent. Hopes that the Legislative Joint Audit Committee, consisting of representatives and senators, will monitor progress while working with the Audit Division.
278	Rep. Close	Asks for observations of Florida's system.
283	Lattimer	Indicates that Florida's system is a major, expensive undertaking. Adds that Oregon has a modified zero-based budget, requiring reductions and add-backs. Speaks about external and internal auditors.
324	Lattimer	Indicates that Department of Administrative Services (DAS) has an internal audit section.
337	Rep. Lowe	Asks who sets and assesses performance indicators.
341	Lattimer	Answers that individual agencies do. Speculates that this is done in consultation with the Governor.
355	Lattimer	Opines that the Audits Division would audit against what the Joint Legislative Audit Committee established with agencies would be the performance indicators. Adds that specific performance measures can be audited.
362	Rep. Morrisette	Explains the tendency is to measure activities instead of outcomes.
374	Rep. Lowe	Refers to ñ1 amendments, Section 2: "The audit committee <u>shall base</u> its recommendations on what government agencies say shall be the targets." Favors language stating "may base."
389	Rep. Morrisette	Indicates that the committee will make the decision. Claims that the authority rests with the members that sit on the committee.
395	Rep. Close	Asks why the language says "shall" instead of "may."

408	Rep. Morrisette	Indicates that Rep. Close's point is well taken.
417	Rep. Kruse	Comments that the interim committee most directly involved with a state agency could assist in determining performance measures.
434	Rep. Morrisette	Tends to agree. Explains reasons that the audit committee was chosen.
440	Rep. Kruse	Indicates the measurement standards could be brought by the committee most involved with the agency to the Audit Committee.
461	George Dunford	Budget & Management Division, Department of Administrative Services. Takes neutral position on HJR 34. Believes the pilot can be accomplished.
507	Chair Lokan	Asks if additional accounting and other infrastructure systems are necessary to create an effective program.
TAPE 65, A		
059	Dunford	Answers, with respect to the pilot, no; if it went statewide, then possibly.
062	Chair Lokan	Closes the public hearing on HJR 34, and opens the public hearing on HB 3582.
<u>HB 3582 PUBLIC HEARING</u>		
077	Zwick	Explains provisions of HB 3582-1 amendments (EXHIBIT J).
094	Charles Stern	Yamhill County Clerk. Testifies in support of HB 3582. Explains that HB 3582 expands the class of instruments for which an additional recording fee may be charged, and then deposited in the Public Land Corner Preservation Fund.
120	Chair Lokan	Asks what is an "A&T" fee.
127	Stern	Responds, assessment and taxation. Provides examples.
148	Stern	Discusses the Land Corner fee. Describes varying fees in different counties. Indicates that the governing body can adjust fees based on need.
160	Rep. Piercy	Asks about uniformity of fees.
165	Stern	Indicates that uniformity is to the type of fee, but not the amount.

170	Rep. Lowe	Protests Multnomah County page-one fee amount of \$20. Asks what is Clackamas County's page-one fee amount.
182	Kauffman	Explains the fee structure.
197	Rep. Lowe	Comments that this will generate "a lot of money."
205	Kauffman	Estimates that the assessor will receive a \$140,000 increase.
208	Stern	Indicates that lien documents are impacted by the expansion.
219	Chair Lokan	Asks for current and projected costs.
222	Kauffman	Explains the fee structure.
231	Stern	Comments that this is a 20% increase in the documents covered. Indicates that the additional money does not benefit the clerks because it goes to the Corner Fund.
244	Chair Lokan	Asks if surveyors support HB 3582.
248	Stern	Responds affirmatively.
252	Rep. Lowe	Asks if it is necessary to increase fees in addition to document expansion.
260	Kauffman	Indicates that HB 3582 expands the documents that the Public Corner Fund applies to, but the law provides local governing bodies establish the fee, county by county.
268	Rep. Lowe	Asks again if it is necessary to increase fees in addition to document expansion.
272	Stern	Opines that issue is best addressed by the surveyors.
280	Jim Markee	Oregon Collectors Association, and Oregon Mortgage Bankers Association. Speaks in opposition to HB 3582. Discusses uniformity throughout the counties. Adds that HB 3582 does not bring about uniformity.
326	Markee	Indicates that HB 3582 has significant impact on certain documents when coupled with other current pending legislation. Discusses a \$20 surcharge that attaches to mortgage documents in HB 2139. Adds that counties want the fee expanded to all documents.

349	Markee	Discusses fee-based programs relative to past and current legislation.
375	Markee	Indicates that HB 3582 expands the \$10 Land Corner Preservation fee to all documents. Refers to a proposal before the House Revenue Committee which adds a \$5 surcharge to all filings of all documents. Provides examples of current and proposed filing fees.
405	Markee	Gives a Clackamas County example of filing a lien record abstract to lien real property: Presently the cost is \$5; if all of these bills pass, the fee will increase to \$40. Addresses debtor filing of satisfaction \$5 fee. Explains problems created for lenders and title companies if a satisfaction is not filed. Adds that this fee will increase to \$40, and could result in nonfilings by debtors.
429	Markee	Refers to SB 81, which allows municipal courts to lien real property, and changes the procedure for civil judgments arising out of justice court. Explains the requirement of recording with the county clerk to effect the lien. Discusses current and proposed fee structures for this process.
448	Markee	Describes the limits and process of real property liens.
474	Tim Martinez	Oregon Bankers Association. Speaks in opposition to HB 3582. Agrees with Mr. Markee's testimony. Indicates that Rep. Lowe has expressed mutual concerns. Discusses the fiscal impact of assessment and taxation.
TAPE 64, B		
058	Chair Lokan	Closes the public hearing on HB 3582. Adjourns the meeting at 10:55 a.m.

Submitted By, Reviewed By,

Susan M. Pettey, Pat Zwick,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3581-1 amendments, staff, 2 pp.

B ñ HB 3581-2 amendments, staff, 1 p.

C ñ HB 3170, proposed changes, Rep. Bill Witt, 2 pp.

D ñ HB 3170-1 amendments, Rep. Bill Witt, 1 p.

E ñ HB 3170, written testimony, Darin Matthews, 4 pp.

F ñ HB 3170, written testimony, Dugan Pettey, 3 pp.

G ñ HB 3409, budgetary information, Rep. Jeff Kropf, 2 pp.

H ñ HJR 34-1, written testimony, Rep. Bill Morrisette, 2 pp.

I ñ HJR 34-1 proposed amendments, staff, 2 pp.

J ñ HB 3582-1 proposed amendments, staff, 1 p.