

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON REGULATIONS

March 22, 1999 Hearing Room 350

3:00 p.m. Tape 20 - 21

MEMBERS PRESENT: Rep. Bill Witt, Chair

Rep. Al King

Rep. Anitra Rasmussen

Rep. Mark Simmons

STAFF PRESENT: Jason Cody, Administrator

Nancy Geisler, Administrative Support

MEASURE/ISSUES HEARD: HB 2819 Public Hearing and Work Session

HB 2821 Public Hearing and Work Session

HB 2822 Public Hearing and Work Session

HB 2823 Public Hearing and Work Session

HB 2824 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 20, A		
004	Chair Witt	Calls meeting to order at 3:15 p.m. and opens public hearing on HB 2819.
<u>HB 2819 n PUBLIC HEARING</u>		
012	Jason Cody	Administrator. Explains HB 2819.

020	Rep. Gary Hansen	District 17. Notes there are six different boiler bills in front of the Committee
028	Tom Lindberg	Chairman, State Board of Boiler Rules (SBBR) and member of Operating Engineers Local 701. Testifies in support of HB 2819. Explains significant inconsistencies in the various bills regarding boilers and how he hopes they can be resolved.
054	Lindberg	Explains how the SBBR is different from other boards. Explains that HB 2819 would add the ability to suspend any inspector's certificate for cause.
062	Rep. King	Comments he is confused about conditions of HB 2819 under which an inspector can be suspended.
067	Lindberg	Notes the chief inspector is the authority who does the suspending. States a deputy inspector is the target of the suspension.
074	Rep. King	Responds he understands the chief inspector can be suspended pending a hearing, but other inspectors would get a hearing.
081	Chair Witt	Explains that Section 1 of HB 2819 relates solely to suspending special inspectors' certificates of competency.
085	Rep. King	Inquires what the difference is between HB 2819, Section 1, lines 8 and 14.
089	Chair Witt	Explains that Section 1 of HB 2819 allows suspension or revocation after a hearing; however, temporary suspension prior to a hearing is also allowed.
091	Lindberg	Answers that is correct. Adds that since deputy directors work directly for chief inspectors, they can be fired.
093	Rep. King	Clarifies that Section 1, line 14, of HB 2819 adds the category of temporary suspension pending a hearing in addition to suspension subsequent to a hearing.
096	Chair Witt	Explains Section 1, line 14, of HB 2819 sets up a suspension in addition to a revocation and a temporary suspension pending a hearing.
098	Lindberg	States he agrees.
100	Rep. Rasmussen	Asks how often the SBBR meets.
102	Lindberg	Answers the SBBR meets quarterly.
104	Rep. Rasmussen	Inquires what it takes to call a special meeting.

107	Lindberg	Explains methods used to call special meetings. Adds that a regularly scheduled meeting is better to gather evidence for a revocation hearing.
113	Chair Witt	Asks if a temporary suspension could last for 30 to 60 days pending a hearing.
117	Lindberg	Affirms this is true.
119	Chair Witt	Inquires if, while a person's license is suspended, they cannot work.
124	Lindberg	Replies this is correct.
126	Chair Witt	Comments this creates a situation where an individual is denied their means of sustenance while waiting for a hearing.
128	Lindberg	Agrees with this, but answers that revocations or suspensions rarely occur. Adds he is talking about very serious offenses which could lead to potential explosions. Indicates HB 2819 would allow swift action to prevent potentially dangerous situations.
144	Joe Brewer	Administrator, Building Codes Division (BCD). Presents written testimony in support of HB 2819 (EXHIBIT A). Explains that often inspectors are certified in more than one state, and HB 2819 proposes they not be able to inspect in Oregon until a hearing is held and a determination made regarding competence.
165	Chair Witt	Asks if Lindberg would object if, in Section 1, line 15, of HB 2819, a sentence providing for a hearing within 30 days of the date of temporary suspension was added.
173	Lindberg	Answers he would not have a problem with that.
177	Rep. King	Asks if there would be any difficulty pursuing or defending these actions.
179	Lindberg	Answers this is a potential, but notes a suspension would not change how the SBBR is operated.
187	Rep. King	Asks if the action could not be finished in 30 days, would the person be able to practice again.
192	Lindberg	Replies he does not have an answer for this question. Notes that in these hearings, the BCD does a great deal of work before the SBBR hearing. Notes they have never had the ability to suspend a special inspector, so it could be a problem.
206	Rep. King	Notes that the individual is at risk of losing their income, but the company could

		be shut down if the person was not able to be replaced. Believes it is good to have a prompt hearing, but fears putting someone back in business who could be a danger to the public.
218	Lindberg	Reiterates that special inspectors work for large insurance companies and have multi-state jurisdictions.
230	Rep. King	Inquires if 30 days is enough time.
232	Lindberg	Answers yes.
234	Rep. Rasmussen	Asks for clarification of what is at risk when someone is incompetent.
238	Lindberg	Notes there are tight inspection schedules for pressure vessels. States if a special inspector has not done inspections on school boilers, the boilers could explode and kill students.
263	Rep. Rasmussen	Asks if an incompetent inspector creates a potentially life threatening situation.
265	Lindberg	Answers yes.
267	Rep. Rasmussen	Comments there must be a balance between the right to livelihood and the public trust.
275	Lindberg	Explains there is enormous potential for danger in boilers not properly maintained and inspected.
287	Rep. Rasmussen	Inquires if a hearing within 30 days ensures the inspector has had a fair chance without endangering the public.
294	Lindberg	Notes that ideally, he would prefer the person be suspended until the next meeting, due to the seriousness of the violations.
305	Rep. Rasmussen	Asks if there would be other legal ramifications if an individual is incompetent.
318	Lindberg	Agrees there would be. Adds that since specific code and licensing issues are being addressed, he would like to keep it in the code. Notes for other legal issues, there would be civil penalties.
331	Rep. Rasmussen	Expresses her concern about limiting the waiting period to 30 days is that possible legal issues may get in the way of the BCD's ability to perform hearings. Suggests HB 2819 specify suspension until a hearing on a date agreed to by both parties.

348	Chair Witt	States Lindberg is here to protect the public and to determine that 30 days is adequate time to ensure this is accomplished.
358	Lindberg	Answers if there are other methods of dealing with the problem if the incident occurs three weeks before a regular board meeting.
371	Chair Witt	Asks if the SBBR has meetings every 90 days.
372	Lindbergh	Answers in the affirmative.
375	Chair Witt	Notes that language in HB 2819 does not specify the matter has to be heard at the next meeting.
390	Rep. Rasmussen	Reports that in Section 1(3) of HB 2819, it requires 10 days notice.
394	Chair Witt	Agrees this means 10 days notice prior to the hearing. Adds if the suspension is temporary, a person could be suspended indefinitely without a hearing.
396	Rep. Rasmussen	Refers to Section 1(5) of HB 2819 regarding reinstatement.
402	Lindberg	Explains the revocation procedure allows for only a 90-day revocation. Adds that the insurance companies either fire these individuals or moves them to another state if they are unable to inspect boilers in Oregon.
408	Chair Witt	Closes public hearing on HB 2819 and opens work session on HB 2819.
TAPE 21, A		
<u>HB 2819 n WORK SESSION</u>		
016	Chair Witt	Remarks he has some proposed language to add to HB 2819 pertaining to hearings being held within 30 days of the date of temporary suspension. Adds a suspension or revocation requires a hearing, and a temporary suspension does not.
021	Rep. King	Asks if HB 2819 requires a hearing.
024	Chair Witt	Comments the language implies a hearing must be held within a certain number of days if the OSBBR wants to continue the suspension.
026	Rep. Rasmussen	Notes that in Section 1(2) of HB 2819, a person will not be suspended or revoked until they have had a hearing, and in Section 1(4), it mentions temporary suspension.

028	Rep. King	Explains the employee may not want a hearing.
030	Chair Witt	Indicates the employee does not have to have a hearing.
031	Rep. Simmons	Asks if the waiting period could be changed to 45 days.
033	Chair Witt	Answers he is open to that. Indicates he supports HB 2819 and temporary suspensions. Reiterates the OSBBR should have a hearing at some point in time once it issues a temporary suspension.
039	Rep. King	Answers the 45-day waiting period would be beneficial in the event of legal complications.
041	Rep. Rasmussen	Inquires if someone is on temporary suspension and has a hearing, can the temporary suspension be continued from that point in time.
053	Chair Witt	Explains it may be continued, permanently suspended, or revoked.
055	Rep. Rasmussen	Asks what happens if everyone agrees to wait.
057	Rep. King	Notes the employee may not want the hearing to occur.
059	Rep. Rasmussen	Notes the employee could ask for a continuance after 45 days.
061	Rep. King	Remarks this is why he favors the option of "may" have a hearing.
063	Chair Witt	Asks if Rep. King is referring to the fact that the hearing "may" be scheduled.
065	Rep. King	Answers yes.
067	Rep. Rasmussen	Remarks that one or the other must be implemented.
069	Chair Witt	Adds that "may" cannot be used because it is an open invitation to continue the temporary suspension.
070	Rep. Rasmussen	Comments they already have the power to "may."
072	Chair Witt	Reads the language the ñ1 conceptual amendments, which states: "The hearing shall be scheduled within 45 days of the date of the temporary suspension were the suspension to continue."

075	Chair Witt	Asks what would happen if the individual did not want the hearing.
077	Rep. Simmons	Responds the individual does not have to show up.
079	Chair Witt	Replies the hearing could still be held and the person's license revoked. Reads the language in the 11 conceptual amendments again.
081	Rep. Simmons	MOTION: Moves to conceptually AMEND HB 2819 on page 1, in line 15, after the period, insert "The hearing shall be scheduled within 45 days of the date of temporary suspension were the suspension to continue."
	Chair Witt	Hearing no objection, declares the motion CARRIED.
083	Chair Witt	Suggests they move HB 2819 to full committee today.
085	Rep. Simmons	Notes the committee will move the 11 amendments into HB 2819 to the full committee and asks if this requires a suspension of the rules.
089	Cody	Explains the rules pertaining to moving conceptual amendments in subcommittees. Adds a subcommittee does not have to suspend the rules.
093	Chair Witt	MOTION: Moves to SUSPEND the rules for the purpose of MOVING -1 conceptual amendments into HB 2819.
096		VOTE: 4-0
	Chair Witt	Hearing no objection, declares the motion CARRIED.
104	Rep. Simmons	MOTION: Moves HB 2819 to the full committee with a DO PASS AS AMENDED recommendation.
106		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Witt	The motion CARRIES. REP. WITT will lead discussion in full committee.

119	Chair Witt	Closes work session on HB 2819 and opens public hearing on HB 2821.
<u>HB 2821 ñ PUBLIC HEARING</u>		
120	Cody	Explains HB 2821.
127	Tom Lindberg	Chairman, Oregon State Board of Boiler Rules (OSBBR). Testifies in support of HB 2821. Reports the OSBBR needs to adjust their fees to be at current standards.
134	Chair Witt	Inquires if HB 2821 makes the late payment fee consistent with comparable late payment fees in the Oregon Code.
137	Lindberg	Answers yes.
139	Rep. Simmons	Asks what dollar amounts are involved in the penalty.
146	Lindberg	Responds the chief boiler inspector for Oregon could more adequately address this question.
148	Curt Lundine	Chief Boiler Inspector. Testifies in support of HB 2821. Explains overdue penalties are approximately \$4,200-4,500 per year. Adds they would be reduced 50% by HB 2821.
152	Chair Witt	Asks what is a typical fee.
156	Lundine	Inquires to what fee Chair Witt is referring.
158	Chair Witt	Responds he is referring to fee which will be reduced under HB 2821.
160	Lundine	Explains it is a permit fee for a permit to operate a boiler or pressure vessel. Adds if a person does not pay the fee within 60 days, the fee is automatically doubled.
164	Rep. Simmons	Asks how much is a typical fee.
166	Lundine	Describes amounts of typical fees for different equipment.
168	Rep. Simmons	Clarifies that under HB 2821, late fees are reduced instead of being doubled.
176	Joe Brewer	Administrator, Building Codes Division (BCD). Indicates the BCD is neutral regarding HB 2821 and has no problem charging lesser late fees.

181	Chair Witt	Closes public hearing on HB 2821 and opens work session on HB 2821.
<u>HB 2821 n WORK SESSION</u>		
190	Rep. Rasmussen	MOTION: Moves HB 2821 to the full committee with a DO PASS recommendation.
192		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 n Rep. King
	Chair Witt	The motion CARRIES. REP. RASMUSSEN will lead discussion in full committee.
205	Chair Witt	Closes work session on HB 2821. Opens public hearing on HB 2822.
<u>HB 2822 n PUBLIC HEARING</u>		
207	Cody	Explains HB 2822.
212	Chair Witt	Clarifies which ORS statutes are being repealed by HB 2822.
220	Tom Lindberg	Chairman, Oregon State Board of Boiler Rules (OSBBR). Testifies in support of HB 2822. Explains the OSBBR wants to repeal an Oregon Revised Statutes (ORS) section which has redundant language to another ORS section regarding automatic fired hot water heaters.
245	Chair Witt	Asks which ORS section has the duplicative language.
250	Lindberg	Explains ORS 480.525 defines what the OSBBR considers exempt. Adds that ORS 480.557 restates the same concept.
264	Rep. Rasmussen	Notes that the language in HB 2824 also to the same ORS section.
268	Chair Witt	Closes the public hearing on HB 2822 and opens work session on HB 2822.
<u>HB 2822 n WORK SESSION</u>		

284	Chair Witt	States the committee wants to remove unnecessary language from the Code.
286	Rep. Simmons	MOTION: Moves HB 2822 to the full committee with a DO PASS recommendation.
288		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. King
	Chair Witt	The motion CARRIES. REP. RASMUSSEN will lead discussion in full committee.
299	Chair Witt	Closes work session on HB 2822. Opens public hearing on HB 2823.
<u>HB 2823 n PUBLIC HEARING</u>		
305	Cody	Explains HB 2823.
311	Tom Lindberg	Chairman OSBBR. Testifies in support of HB 2823. Reports that when Trojan was operating, changes were made to the constituency of the Board. Notes that since Trojan has ceased operating, Reed College has the only operating nuclear installation. Expresses it would be more appropriate to have representation of the boiler business community.
320	Rep. Simmons	Asks how the boiler at Reed College is inspected.
342	Curt Lundine	Chief Boiler Inspector. Inquires what was the previous question.
344	Rep. Simmons	Indicates previous testimony indicated one nuclear facility in the state. Inquires how this is currently inspected.
350	Lundine	Explains there are two model nuclear power plants at universities in Oregon and one manufacturer of nuclear parts. Stresses statutes require manufacture of nuclear vessels, so the manufacturer of the nuclear part does not qualify. Presents written testimony from Joe Brewer. (EXHIBIT B) .
382	Chair Witt	Closes public hearing on HB 2823. Opens work session on HB 2823.

HB 2823 n WORK SESSION

384	Rep. Simmons	MOTION: Moves HB 2823 to the full committee with a DO PASS recommendation.
386		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. King
	Chair Witt	The motion CARRIES. REP. WITT will lead discussion in full committee.
390	Chair Witt	Closes work session on HB 2823 and opens public hearing on HB 2824.

TAPE 20, B (Note: audio problems cause delay at beginning of tape 20, B)

HB 2824 n PUBLIC HEARING

010	Cody	Explains HB 2824.
020	Lindberg	Testifies in support of HB 2824. Notes the definition of exempted vessel needs to be modified to indicate the vessel is designed for hearing potable water and must contain a safety relieving device.
030	Steve Vincent	Lobbyist, Avista Corporation, representing gas utility in Medford. Testifies in opposition to HB 2824. Notes that in HB 2824, Section 1(b), there is a change in the definition of which water heaters are exempt. Explains he would like to work on more appropriate language regarding water heaters.
066	Rep. Simmons	Underscores that if there is a conflict between installation of new or revised equipment into current or new structures, it is appropriate to provide amendments to eliminate this problem.
072	Chair Witt	Clarifies that some of the water heaters, which are exempt from inspection, will be brought under the inspection requirement by language in HB 2824.
078	Vincent	Answers yes.

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080	Lundine	Says he understands Vincent's concerns about the definition of water heaters. Reports they need clear language concerning what is exempt from the Boiler Law. Adds Vincent is describing a water heater, not a boiler.
095	Lindberg	Reiterates they want to clearly define which equipment is exempt.
108	Chair Witt	Asks if Lindberg's organization could work with Vincent to create language to allay Vincent's concerns.
111	Lindberg	States he would be happy to speak with Vincent. Notes he does not believe any more language is necessary.
113	Witt	Asks Vincent if he still feels uneasy about HB 2824.
116	Vincent	Responds yes. Reports his concern is that HB 2824 deletes statute.
126	Rep. Simmons	Remarks that some concise exceptions could be added to HB 2824.
129	Chair Witt	Remarks that a proposed amendment could be added to HB 2824.
139	Chair Witt	Closes public hearing on HB 2824. Adjourns meeting at 4:25 p.m.

Submitted By, Reviewed By,

Nancy Geisler, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2819, written testimony, Joe Brewer, 1 p

B ñ HB 2823, written testimony, Joe Brewer, 1 p