

## HOUSE COMMITTEE ON GENERAL GOVERNMENT

March 11, 1999 Hearing Room D

1:15 p.m. Tapes 38 - 40

**MEMBERS PRESENT:** Rep. Carl Wilson, Chair

Rep. Jason Atkinson, Vice-Chair

Rep. Chris Beck, Vice-Chair

Rep. Jo Ann Bowman

Rep. Ryan Deckert

Rep. Steve Harper

Rep. Bruce Starr

Rep. Ron Sunseri

Rep. Terry Thompson

**MEMBERS EXCUSED:**

**STAFF PRESENT:** Cara Filsinger, Administrator

Faye D. Trupka, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2484 Work Session

HB 2543 Public Hearing

HB 2757 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 38, A		

004	Chair Wilson	Opens meeting at 1:19 p.m. and opens work session on HB 2484.
<b><u>HB 2484 WORK SESSION</u></b>		
007	Cara Filsinger	Administrator. Explains HB 2484 and HB 2484ñ2 amendments.
014	Bob Rindy	Legislative Coordinator, Department of Land Conservation and Development (DLCD). Testifies in support of HB 2484 ( <b>EXHIBIT A</b> ). States that amendments provide for the applicant and the local government representative to testify in front of the commission for 10 minutes. States that DLCD appeals comprise approximately 6% of Land Use Board of Appeals (LUBA) caseload.
065	Craig Greenleaf	Transportation Development Division, Oregon Department of Transportation. States he is available for questions and to correct the total number of cases, which has been addressed.
074	Rep. Thompson	<b>MOTION: Moves to ADOPT HB 2484-2 amendments dated 03/03/99.</b>
		<b>VOTE: 7-2</b>  <b>AYE: 7 - Atkinson, Deckert, Harper, Starr, Sunseri, Thompson, Wilson</b>  <b>NAY: 2 - Beck, Bowman</b>
Chair		<b>The motion Carries.</b>
080	Rep. Thompson	<b>MOTION: Moves HB 2484 to the floor with a DO PASS AS AMENDED recommendation.</b>
082	Rep. Bowman	States her concern about adding another layer of government.
085	Rep. Beck	Points to paragraph 4 of amendment and discusses the possibility of having amendments drafted that would require local governments to participate in LUBA appeals. Asks if other members of the committee would be interested in exploring amendments.
099	Rep. Bowman	States that local governments should defend land use decisions.

115	Rep. Beck	States concern about HB 2484. Asks for more time to work on amendments.
130	Chair Wilson	Comments that HB 2484 adds more accountability to the process and it allows greater opportunity for the private citizen to have input.
145	Rep. Beck	Recognizes that local government staff are hard working and they communicate with their commissions regularly.
160		<b>VOTE: 7-2</b>  <b>AYE: 7 - Atkinson, Deckert, Harper, Starr, Sunseri, Thompson, Wilson</b>  <b>NAY: 2 - Beck, Bowman</b>
	<b>Chair Wilson</b>	<b>The motion Carries.</b>  <b>REP. MORGAN will lead discussion on the floor.</b>
163	Rep. Beck	Serves notice of possible minority report.
165	Rep. Bowman	Serves notice of possible minority report.
165	Chair Wilson	Closes work session on HB 2484 and opens public hearing on HB 2543.
<b><u>HB 2543 PUBLIC HEARING</u></b>		
170	Rep. Dan Gardner	Representative, House District 13. Explains HB 2543. Supports HB 2543.
191	Jerry Bruce	International Brotherhood of Electrical Workers and Oregon State Electrical Workers Association. Supports HB 2543. Gives history of organization. States that union contractors are usually signatory with other crafts, but not with mechanical trades.
252	Bruce	Explains process of collecting quotes and producing a bid. States that the open shop contractor does not have to go through the cost items, so they bid lower and usually get the job.

260	John Gervais	Sheet Metal and Air Conditioning National Association. Supports HB 2543. Cites a Klamath Falls bid process. States that HB 2543 will give accountability to the process.
288	Rep. Sunseri	Asks how HB 2543 will restrict general contractor from using a variety of sub-contractors.
304	Rep. Gardner	Replies this would not restrict a general contractor on private projects or public projects less than \$75,000.
309	Bruce	States that the general contractor has a select list from which to choose.
314	Rep. Sunseri	Asks about the \$75,000 amount.
319	Gervais	Replies that most larger contracts are \$75,000 and below.
323	Rep. Bowman	States there is a requirement that all public contracts over \$75,000 must be bid out. Asks about the additional cost to the contract.
338	Bruce	Replies that it should not add any money to the contracting agencies cost.
349	Rep. Bowman	Asks what if sub-contractors do not have good working relationships.
368	Bruce	Replies there have been bills introduced to give governmental agencies some flexibility in pre-qualifying contractors.
389	Rep. Bowman	States that sub-contractors will be paid even if a conflict between sub-contractors and the general contractor has not been settled, even though the product has not been delivered.
404	Gervais	Replies sub-contractors are at the mercy of the general contractor in terms of timing and must cooperate carefully.
<b>TAPE 39, A</b>		
002	Bruce	Explains the goal of apprenticeships.
022	Gervais	States there are severe penalties for failure to meet time requirements.
027	Rep. Bowman	Asks if government agencies would be liable if a project was not completed on time.

038	Gervais	States that contractors are required to provide a payment and performance bond to the government contracting agency.
050	Gary Wright	Plumbers and Pipefitters Local 290. Testifies in support of HB 2543.
060	Ed Gormly	Plumbing and Mechanical Contractors Association. Testifies in support of HB 2543 ( <b>EXHIBIT B</b> ). Explains the public process was meant to protect all involved in the construction process. States HB 2543 would help prevent bid shopping.
097	Rep. Deckert	Asks for explanation of pedalling.
103	Gormly	Explains pedalling is the process by which the general contractor makes money at the expense of the sub-contractors.
113	Rep. Bowman	Asks if HB 2543 will address issues of inequity in how public contracts have been awarded for minority, women and emerging small businesses.
124	Gormly	Replies that HB 2543 elevates sub-contractors to the same level of responsibility of the general contractor.
130	Rep. Starr	Asks if \$75,000 is too low.
138	Gormly	Replies he does not have an answer since he was not involved in the study that established the minimum.
150	Rep. Starr	Asks if bid shopping causes low quality work and sub-standard materials.
161	Gormly	Explains the concept of value engineering and gives examples of different qualities of materials.
194	Bob Shiprack	Oregon State Building and Construction Trades Council. Supports HB 2543. States the builder's trust funds are Taft-Hartley Trusts under federal labor law. Comments that the trust funds from contractors go into the worker's name. States that if the sub-contractor is not getting paid and can not make the fringe benefit payments into the trust fund, the worker does not have health or pension coverage.
246	Shiprack	States that the trust fund must sue the sub-contractors in order to collect the money due. States this causes many contractors to be forced out of business.
278	Chair Wilson	Asks if any sub-contractors are excluded because of their size.
292	Gormly	Replies if a contractor is unable to bond a project, then they would be

		disqualified from bidding.
310	Chair Wilson	Asks if everyone must have a bond.
312	Gormly	Replies no.
314	Rep. Bowman	Asks about small contractors being unable to obtain bonding.
334	Shiprack	Replies sub-contractors are bonded and is unsure of what problems they may encounter.
341	Gormly	States that the prime mechanical bidder must meet criteria.
372	Rep. Bowman	Asks about the City of Portland's bond pool and if the assessment has been completed.
383	Shiprack	Replies that the assessment has been deferred.
420	Shawn Miller	Associated Builders and Contractors. Testifies in opposition of HB 2543 <b>(EXHIBIT C)</b> . States the purpose of the general contractor is to control the scheduling and the execution of the project. States that the payment to the sub-contractors delineates control.
<b>TAPE 38, B</b>		
038	Chuck Crouser	Government Affairs, Associated Builders and Contractors. Testifies in opposition to HB 2543. States that bid shopping is not good for all concerned. Says that, at the time of bidding, the general contractor should identify the sub-contractors.
069	Rep. Bowman	Asks for solution to bid shopping.
073	Crouser	Replies that one way would be to require the general contractor to list the sub-contractors they will be using at the time of bidding.
078	Rep. Bowman	Asks about Multnomah County's requirement that sub-contractors be listed at the time of bidding.
090	Crouser	Replies a penalty for listing the sub-contractors and then not using them might cut down on the violations.
102	James Van Dyke	Deputy City Attorney, City of Portland. Testifies in opposition to HB 2543 <b>(EXHIBIT D)</b> . States that HB 2543 does not make a distinction about the size of

		the contract.
152	Van Dyke	States that the City of Portland awards approximately 100 contracts per year above \$75,000. States that if each of those contracts has multiple parts, for example plumbing and electrical, then the City would have to award 400 contracts which creates a larger expense.
198	Rep. Starr	Asks if it would make a difference if \$75,000 was changed to \$250,000.
208	Van Dyke	Replies yes.
213	Chair Wilson	States that he will move hearing HB 2895 to March 16.
226	Dugan Pettey	State Purchasing Manager, Department of Administrative Services. Testifies in opposition to HB 2543 <b>(EXHIBIT E)</b> . States HB 2543 shifts the project superintendent duties from the general contractor to the public agency. States the bill also increases administrative efforts throughout the contract and increases claim and dispute potential.
290	Linda Ludwig	League of Oregon Cities. Testifies in opposition to HB 2543 <b>(EXHIBIT F)</b> . States the city's design and engineering consultants would have to create up to four times as many bid documents, including separate solicitations, specifications and contracts. Comments that HB 2543 would substantially increase the costs of public improvement contracts without significant benefit to the public.
340	Joe Speight	Construction Contracts Unit Manager, Oregon Department of Transportation (ODOT). Testifies in opposition to HB 2543 <b>(EXHIBIT G)</b> . States that HB 2543 would increase the cost and complexity of contracting for highway work. Explains that general contractors have excellent working relationships with certain subcontractors, including Disadvantaged Business Enterprise, which is required on federally funded projects.
384	Rep. Atkinson	Asks if Speight will testify on HB 2895 next week.
390	Speight	Replies no.
394	Roger Martin	Oregon Transit Association and the City of Medford. Testifies in opposition to HB 2543. States that public agencies must go through a complicated process to award contracts. Emphasizes the importance of all contractors on a job being able to work together.
<b>TAPE 39, B</b>		
028	Cindy Catto	Associated General Contractors (AGC). Testifies in opposition to HB 2543 <b>(EXHIBIT H)</b> . Gives history of organization States that HB 2543 increases costs and administrative burden on public owners and complicates contractor

		ability to effectively and safely manage public projects.
050	Rep. Bowman	Asks what AGC will do to discourage bid shopping.
053	Catto	Replies there is no way to ensure that bid shopping will not happen. Reports that AGC is not in favor of bid shopping.
060	John Ruger	Facilities Services Administrator, Oregon Department of Corrections. Testifies in opposition to HB 2543 ( <b>EXHIBIT I</b> ). States that the Department of Corrections has separate bid packages that require sub-contracts be competitively bid. Explains that HB 2543 will increase the cost of doing business by having to monitor the contracts and increasing staffing.
077	Peter Grundfossen	Association of Oregon Housing Authorities. Testifies in opposition to HB 2543 ( <b>EXHIBIT J</b> ). Gives history of association. Concurs with previous testimonies in opposition to HB 2543. States that he was in contact with numerous public agencies and recounts their "horror" at the possible passage of HB 2543 and the resulting costs involved.
115	Chair Wilson	Closes public hearing on HB 2543 and opens public hearing on HB 2757.
<b><u>HB 2757 PUBLIC HEARING</u></b>		
122	Rep. Ron Sunseri	Representative, House District 22. Testifies in support of HB 2757. Details HJR 88 from 1997. Explains HB 2757.
156	Debbie Noah	Former Gresham City Council Member. Testifies in support of HB 2757. States HB 2757 would protect an existing county from the financial burden of a newly created county.
204	Rep. Bowman	Asks about HB 2757 and eliminating the separating county's ability to vote.
216	Noah	Asks in what way it could be viewed that the existing county would be financially impacted.
220	Rep. Bowman	Replies there would be issues of ownership, county services and social service agencies.
226	Noah	Replies that the City of Gresham studied the issues and states that all can be overcome.
239	Rep. Bowman	Asks if those people who are losing resources have input in the process.
259	Noah	Replies that those in the county should be able to decide their own fate.



274	Rep. Bowman	States that if existing facilities were located in the new county then the established county would need to build new facilities.
293	Rep. Sunseri	Replies that the purpose of HB 2757 is to deal strictly with elections.
307	Noah	Comments that intergovernmental agreements were designed for that reason.
311	Judith Ure	City of Gresham. Testifies in support of HB 2757 and HJR 28 ( <b>EXHIBIT K</b> ). States that HB 2757 and HJR 28 will secure the rights of East Multnomah County citizens to control decisions that effect their communities.
333	Don McIntire	Testifies in support of HB 2757 and HJR 28. Explains that a significant number of people living in East Multnomah County may not be in sync with residents living in the downtown area.
<b>TAPE 40, A</b>		
001	McIntire	States that a significant amount of Gresham tax dollars fund Multnomah County.
013	Rep. Bowman	Expresses her concern about the process to ensure that the debts of both Gresham and Multnomah County are the responsibility of the appropriate counties.
022	Rep. Deckert	Comments about the loss of revenue when areas are divided.
046	McIntire	Asks if counties are a vehicle for income redistribution.
055	Rep. Deckert	Comments on progressive tax system where those with more financial resources can provide the necessary basic services.
059	Rep. Thompson	States that government is not the essence of a free market system.
063	Rep. Beck	Asks if the City of Gresham has taken a position on this issue.
064	Ure	Replies yes. States the city's support of HB 2757.
070	Rep. Beck	Asks for a copy of the city's resolution.
074	Ure	Replies yes.
080	Rep. Bowman	Asks for information about the impact that this resolution could have on the state.

093	Rep. Beck	States that HB 2757 seems tailored to the City of Gresham's circumstance.
098	Rep. Sunseri	States that a few counties would be affected by this legislation.
107	Bob Cantine	Association of Oregon Counties. States there are 29 counties which could divide themselves into separate counties. Expresses the desirability of limiting the number of new counties.
125	Rep. Sunseri	States that Legislative Counsel will draft an amendment prior to a work session.
130	Chair Wilson	Closes public hearing on HB 2757 and adjourns meeting at 3:22 p.m.

Submitted By, Reviewed By,

Faye D. Trupka, Cara Filsinger,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 2484, written testimony, Bob Rindy, 3 p.**

**B ñ HB 2543, written testimony, Ed Gormly, 1 p.**

**C ñ HB 2543, written testimony, Shawn Miller, 1 p.**

**D ñ HB 2543, written testimony, James Van Dyke, 3 pp.**

**E ñ HB 2543, written testimony, Dugan Petty, 2 pp.**

**F ñ HB 2543, written testimony, Linda Ludwig, 3 pp.**

**G ñ HB 2543, written testimony, Joe Speight, 1 p.**

**H ñ HB 2543, written testimony, Cindy Catto, 2 pp.**

**I ñ HB 2543, written testimony, John Ruger, 2 pp.**

**J ñ HB 2543, written testimony, Peter Grundfossen, 1 p.**

**K ñ HB 2757, written testimony, Judith Ure, 3 pp.**