

HOUSE COMMITTEE ON GENERAL GOVERNMENT

April 13, 1999 Hearing Room D

1:15 p.m. Tapes 61 - 62

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

STAFF PRESENT: Cara Filsinger, Administrator

Faye D. Trupka, Administrative Support

MEASURE/ISSUES HEARD: HB 2890 Public Hearing

HB 2891 Public Hearing

HB 3582 Reconsideration 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 61, A		
004	Chair Wilson	Opens meeting at 1:16 p.m. and opens public hearing on HB 2890.

HB 2890 PUBLIC HEARING

006	Cara Filsinger	Administrator. Explains HB 2890.
015	Cindy Catto	Associated General Contractors (AGC). Testifies in support of HB 2890 (EXHIBIT A) . Explains that general contractors often do not have knowledge of second or third tier suppliers and contractors. States that increased knowledge of who is contracted to work on public projects is a good business practice and will reduce the instances when subcontractors are not receiving payment.
064	David Andersen	Andersen Construction Company, Inc. Testifies in support of HB 2890 (EXHIBIT B) . Explains history of company. Describes three recent incidents where the company had to pay twice for second and third tier work done by sub-contractors.
118	Rep. Bowman	Asks if HB 2890 passes, if a sub-contractor will be made aware of other sub-contractors.
123	Andersen	Replies that he does not know.
127	Rep. Bowman	Asks if sub-contractors should be required to notify the general contractor of their sub-contractors.
131	Andersen	Replies that the problems are with the sub-sub-contractors and suppliers.
134	Rep. Bowman	States the contract could read that the general contractor would not be responsible for any payment for anyone who was not listed as a sub-sub.
141	Andersen	States the question is how to administer that process.
143	Larry Sitz	Emerick Construction Company. (EXHIBIT C) Explains that non-payment only happens when the sub-contractor is going broke.
158	Andersen	Describes a cumbersome process which becomes more difficult when sub-contractors come and go on the job.
176	Sitz	Testifies in support of HB 2890. Describes a recent public works project where his company will have to pay \$40,000 twice for the same work. States that it is difficult to determine if a sub-contractor is financially secure.
221	Rep. Atkinson	Asks if a general contractor goes out of business, if HB 2890 will protect the sub-contractors.
232	Andersen	States that a bond exists which would protect the sub-contractors.

243	Rep. Atkinson	States agreement with Andersen.
246	Sitz	States that it is not easy to collect on a bond.
251	Rep. Bowman	Asks if previous bill that dealt with prompt pay will correct the problem.
260	Sitz	Replies yes.
269	Rep. Bowman	Describes the length of time it could take to pay the sub-contractors.
276	Sitz	States that it is easy for a supplier to put pressure on the general contractor's bond.
282	Rep. Atkinson	Describes the bond as an accounts payable system while the prompt pay is cash flow.
317	John Gervais	National Electrical Contractors Association and others. Testifies in opposition to HB 2890. States that HB 2890 is an unnecessary burden on the sub-contractors. Describes the potential risks and responsibilities of both the general contractor and the sub-contractor upon passage of HB 2890.
358	Rep. Harper	Asks for clarification of cost.
363	Gervais	States that the individuals required to administer the notices will increase the cost for each organization.
371	Rep. Harper	Asks for details of the form to be used.
374	Gervais	Replies that the forms would be provided by an organization for the contractors.
385	Pat Jones	Consolidated Supply Company. Gives history of company. States that each notice will cost \$20 multiplied by the number of tiers under the sub-contractor.
404	Jerry Van Scoy	Associated Floor Covering Contractors. Testifies in opposition to HB 2890. States that most concerns are addressed in a contract booklet from AGC. Gives description of delegating or sub-contracting of duties.
TAPE 62, A		
040	Rep. Bowman	Asks if when purchasing supplies the sub-contractors need a copy of the notice to give the retailer. Asks if the notice needs to be returned to the general contractor.

051	Van Scoy	Replies yes.
053	Rep. Bowman	Asks if the general contractor would know who the sub-contractor has done business with.
054	Van Scoy	Replies that the language can be written in the sub-contract agreement.
057	Rep. Bowman	Asks if the sub-contractor contract states what the process would be for sub-sub-contracting or buying materials.
060	Van Scoy	Replies that he does not know. Asks for clarification of lines 26-30 of HB 2890.
083	Gervais	Explains the eight day notice.
092	Catto	Explains HB 2890-1 amendments. States that individual workers are not required to file notice.
106	Chair Wilson	Asks about the sub-contract.
109	Catto	Explains that it deals with sub-contractor to sub-contractor relationships.
111	Rep. Bowman	Asks if HB 2890 was a collaborative process and who was involved.
113	Catto	Explains that it was a collaborative process within AGC.
134	Paul Tiffany	Bureau of Labor and Industries. Testifies in support of HB 2890-1 amendments.
145	Phil Donovan	Oregon Equipment Rental Association. Testifies in opposition to HB 2890 (EXHIBIT D) . States that pre-claim notices against a payment bond on a public works project are unnecessary.
155	Chair Wilson	Asks with passage of HB 2890 if each time that a piece of equipment is rented to a sub-contractor if the rental company would have to provide a notice.
160	Donovan	Replies yes.
165	Doug Riggs	Plumbing and Mechanical Contractors Association. Testifies in opposition to HB 2890 (EXHIBIT E) . States that HB 2890 will replace Oregon's current bond paying process with a process that will increase the cost to taxpayers and small businesses.
206	Gary Wright	U.A. Plumbers and Pipefitters, Local 290. Testifies in opposition to HB 2890

		(EXHIBIT F) . States that sub-contractors are worried about the general contractors going broke and not being able to pay.
234	Chair Wilson	Asks for all the parties involved to get together to work out some of the issues. Closes public hearing on HB 2890 and opens public hearing on HB 2891.
<u>HB 2891 PUBLIC HEARING</u>		
260	Filsinger	Explains HB 2891.
275	Larry Eisenberg	Facilities Manager, Washington County. Testifies in support of HB 2891 (EXHIBIT G) . States that HB 2891 was developed to be sure that the public receives the same insurance and bond protection on public construction using design-build as occurs through the design-bid-build process.
325	Eisenberg	Gives example of a successful project under the design-build approach in Washington County which moved from contract to completion in eleven months.
362	Rep. Starr	Asks if Eisenberg has seen the HB 2891-3 amendments.
368	Eisenberg	Replies yes.
372	Darrin J. Oelke	Testifies in support of HB 2891. Reads from written testimony (EXHIBIT H) .
TAPE 61, B		
014	Rep. Bowman	Asks for a list of members of the Public Contracting Coalition.
017	Eisenberg	Points to the back page of EXHIBIT G .
023	Rep. Bowman	Asks why state law needs to be changed when so few people are involved in design-build public contracting.
026	Eisenberg	Explains design-build is the correct choice for certain projects.
039	Rep. Bowman	States that there is not much interest in the design-build concept by public agencies.
047	Ken Stoneman	Oregon Department of Transportation. Testifies in support of HB 2891. Reads written testimony (EXHIBIT I) .
097	Stoneman	Continues to read written testimony.

109	Scott Williams	Hamilton Construction Company. Testifies in support of HB 2891 and reads written testimony (EXHIBIT J) .
147	Chair Wilson	Asks about clarification of surety bonds.
158	Williams	Describes surety bonds.
172	Chair Wilson	Asks if the contractor would be responsible for errors and omissions insurance.
176	Williams	States that it would depend on how the contract is written.
181	Eisenberg	Explains that the errors and omissions insurance would be kept separate from the design-build process.
189	Rep. Bowman	Asks when a contract is awarded for both design and construction if HB 2891 will assure if there is any defect in design that it will be covered under the design phase and the bond portion will cover all other areas.
199	Eisenberg	Replies yes.
208	Chair Wilson	States that he would like further study on the issue.
210	Rep. Bowman	Agrees that more work needs to be done.
220	Chair Wilson	Submits written testimony from Linda Ludwig (EXHIBIT K) .
227	Chair Wilson	Closes public hearing on HB 2891 and opens work session on HB 3582.
<u>HB 3582 WORK SESSION</u>		
230	Filsinger	Explains reconsideration of HB 3582.
240	Rep. Bowman	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on HB 3582.
		VOTE: 7-0 EXCUSED: 2 - Deckert, Harper
	Chair Wilson	Hearing no objection, declares the motion CARRIED.

250	Rep. Bowman	MOTION: Moves to RECONSIDER the vote by which HB 3582 was moved to the floor WITHOUT RECOMMENDATION as to passage and Be Referred to the committee on Agency Performance and Operations.
		VOTE: 7-0 EXCUSED: 2 - Deckert, Harper
	Chair Wilson	Hearing no objection, declares the motion CARRIED.
260	Rep. Bowman	MOTION: Moves HB 3582 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Agency Performance and Operations and then BE REFERRED to the committee on Ways and Means by Prior Reference.
		VOTE: 6-0 AYE: 6 - Beck, Bowman, Starr, Sunseri, Thompson, Wilson EXCUSED: 3 - Atkinson, Deckert, Harper
	Chair Wilson	The motion Carries.
270	Chair Wilson	Closes work session on HB 3582 and adjourns meeting at 2:33 p.m.

Submitted By, Reviewed By,

Faye D. Trupka, Cara Filsinger,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2890, written testimony, Cindy Catto, 2 pp.

B ñ HB 2890, written testimony, David Andersen, 1 p.

C ñ HB 2890, written testimony, Larry Sitz, 2 pp.

D - HB 2890, written testimony, Phil Donovan, 2 pp.

E - HB 2890, written testimony, Doug Riggs, 1 p.

F - HB 2890, written testimony, Gary Wright, 1 p.

G - HB 2891, written testimony, Larry Eisenberg, 4 pp.

H - HB 2891, written testimony, Darrin J. Oelke, 2 pp.

I - HB 2891, written testimony, Ken Stoneman, 2 pp.

J - HB 2891, written testimony, Scott Williams, 2 pp.

K - HB 2891, written testimony, Linda Ludwig, 1 p.