

**HOUSE COMMITTEE ON COMMERCE**

**SUBCOMMITTEE ON BUSINESS**

February 6, 1997 Hearing Room 357

8:30 A.M. Tapes 5 - 6

**MEMBERS PRESENT:**

Rep. Roger Beyer, Chair

Rep. Richard Devlin

Rep. Bob Montgomery

Rep. Jackie Taylor

**STAFF PRESENT:**

Keith Putman, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2039 - Public Hearing

HB 2040 - Public Hearing

HB 2041 - Public Hearing

HB 2042 - Public Hearing

HB 2043 - 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 5, A		
004	Chair Beyer	Calls meeting to order at 8:34 a.m. as a subcommittee. Reps. Devlin and Taylor are excused.
013	Putman	Explains that HB 2041, 2042 and 2043 have been introduced as a result of recommendations from a performance audit.
010	Chair Beyer	Opens public hearing on HB 2039.

<b><u>HB 2039 - PUBLIC HEARING</u></b>		
027	Putman	Explains provisions of HB 2039.
036	Ken Keudell	Administrator, Construction Contractors Board, submits and reviews written statement explaining provisions of HB 2039 (EXHIBIT A).
084	Keudell	Continues reviewing provisions of HB 2039.
106		Issues discussed:
		* eligible claims (page 1, line 25)
	Keudell	Explains there is a one-year time period for filing a claim; a loophole in the current law allows people a longer period to file certain kinds of claims, and that was not the intent of the law.
127	Wendy Robinson	Assistant Attorney General, Oregon Department of Justice, explains she has advised the board that claims which would otherwise be considered untimely because they come out of court judgments are, in fact, timely because of the language in the statutes.
130	Keudell	Continues review of HB 2039 (EXHIBIT A).
164	Robinson	Comments the changes proposed in Section 5 are critical. Explains problems encountered in claims, court proceedings, final orders by the board, and surety bond agents' assertion they do not receive timely notice.
217	John Powell	Contractors Bonding and Insurance Company, explains "surety":
		* is not insurance, and unless it is a performance bond for a certain amount of money, is not designed to cover the entire cost of a project or eliminate the need to seek redress in court
		* most bonds which are sold to people registered with the Contractors Board, are licensing or registration bonds designed to create a hurdle for people to get over prior to entering the business
		* surety bond is to give some look at the person's financial means to assure there is some means of them being successful in business.
257		* asks they have time to sit down with the board and staff to discuss HB 2039 regarding arbitration awards on page 3, notices to sureties on page 6, line 35, suggests a subsection (d) be added at the top of page 7 so the surety can argue their maximum liability, and that on page 7, (b) beginning in line 3 be deleted.
307	Mike Scott	Power Rents and Oregon Equipment Rental Association, submits statement of support/opposition to HB 2039, 2040, 2041, 2042, and 2043 (EXHIBIT F), testifies in support of HB 2039 and explains he needs to go to court to get a judgment against the contractor and then get the final order from the board. Agrees the changes

		are technical and the issues raised by Mr. Powell need to be addressed.
349	Putman	Asks if the parties will be able to work out an agreement.
	Scott	Responds affirmatively.
362	Fred VanNatta	Oregon Building Industry Association, advises the committee their organization will participate in the negotiations.
371	Rep. Montgomery	Asks if all parties involved were included in the drafting of the bill.
385	Keudell	Responds he believes HB 2039 is a combination of two bills from last session and the agency did not send the bill to the parties involved.
<b>TAPE 6, A</b>		
010	Stephen Kafoury	Remodelers Association, speaks in support of the concepts in HB 2039 and asks to be included in the negotiations.
028	Chair Beyer	Requests that all parties work with the committee administrator to come up with an agreement, closes the public hearing on HB 2039, and opens the public hearing on HB 2040.
<b><u>HB 2040 - PUBLIC HEARING</u></b>		
038	Ken Keudell	Administrator, Construction Contractors Board, testifies in support of HB 2040 (EXHIBIT B), explains the current situation of a person hiring an unregistered contractor and how HB 2040 would allow a person who has had a lapse in licensing to be protected.
064		Adds that HB 2040 also needs to be referred to the negotiating parties to work out the differences in interpretation of the language in the measure.
		Issues discussed:
		* when the provisions would apply to unlicensed contractors
		* lapsed license time frames
093		* elimination of "contractor" on line 20 is Legislative Counsel form and style.
112	John Powell	Contractors Bonding and Insurance Company, requests work group be allowed to work out the lapse in licensing language in lines 12-14, and agrees with the Construction Contractors Board on other measures before the committee.
151	Mike Scott	Power Rents and Oregon Equipment Rental Association (EXHIBIT F), supports testimony of Mr. Powell because the business may not have been licensed 60 days prior. Bill does not say the contractor would have a bond in place. Opposed to board's ability to retroactively reinstate licenses

		because a case may go to court. Requested that if a claim is filed and contractor is not licensed, the homeowner be notified.
200	Shawn Miller	Associated Builders and Contractors, supports board's effort in inadvertent lapses in registration and would like to participate in working on the language.
214	John Gervais	National Electrical Contractors Association and the Construction Industry Committee (a coalition of contractors, material suppliers and others), believes bond should be in place. Cites example where a contractor was going through a divorce, and the renewal form was thrown away. Also concerned about wording in line 25 on page 1 and would like to work with the group on all the bills.
241	Rep. Montgomery	Suggests the renewal date be on the person's birthday.
250	Fred VanNatta	Oregon Building Industry Association, comments HB 2040 arises from the fact contractors are not always timely in doing their paper work and during the last biennium the Construction Contractors Board was 84 days behind in processing paper and the fault was not always the contractor's.
274	Chair. Beyer	Comments he believes HB 2040 opens the door for fraud by contractors and also needs to go to the work group, closes the public hearing on HB 2040, and opens the public hearing on HB 2041.
<b><u>HB 2041 - PUBLIC HEARING</u></b>		
325	Ken Keudell	Administrator, Construction Contractors Board, submits explanation of HB 2041 (EXHIBIT C) and testifies in support of HB 2041.
357	Mike Scott	Power Rents and Oregon Equipment Rental Association, testifies in support of HB 2041 (EXHIBIT F).
370	Shawn Miller	Associated Builders and Contractors, urges support of HB 2041 because it decreases paperwork.
384	Fred VanNatta	Oregon Building Industry Association, agrees with Mr. Scott and urges support of HB 2041.
391	Stephen Kafoury	Oregon Remodelers Association, testifies in support of HB 2041.
422	Chair Beyer	Comments he believes two bills could be combined because both amend 701.115, closes public hearing on HB 2041 and opens public hearing on HB 2042.
<b>TAPE 5, B</b>		
<b><u>HB 2042 - PUBLIC HEARING</u></b>		
030	Putman	Reviews provisions of HB 2042 and suggests the committee may want to refer the bill to Judiciary Committee.

045	Rep. Devlin	Questions the source of funding.
051	Keudell	Explains the agency budget is out of Ways and Means Subcommittee and the increase is still in the budget.
059	Ken Keudell	Administrator, Construction Contractors Board, submits and reviews a statement opposing elimination of the non-owner claims and in support of the provision to reduce the cost of claims (EXHIBIT D).
120	Putman	Asks if the board wishes to keep all of Section 2, or just the language on pages 3 and 4.
126	Keudell	Wants to keep language to allow restriction on claims of less than \$250 and also keep the language on page 3 to allow the board to subject claims of less than \$1,000 to mandatory mediation.
141		Issues discussed:
		* number of claims and cost of processing claims
162	Mike Scott	Power Rents and Oregon Equipment Rental Association, testifies in opposition to HB 2042 (EXHIBIT F).
193	John Gervais	National Electrical Contractors Association, agrees with Mr. Scott in opposing HB 2042.  * the deletion on page 4, line 29, would not allow contractors to recover labor and employee benefits under the bond.
221	Putman	Asks if Mr. Gervais and Mr. Scott agree with the board to keep the language about not exceeding \$250 and to have small claims subject to mediation.
229	Gervais	Responds he would agree with the concept, and suggests if an employee had not been paid a portion of his pay, or part of the fringe benefits were not paid, it could be excluded.
233	Scott	Responds setting a cap and requiring alternative dispute resolution by mediation or arbitration would be supported. Suggests the provisions should be transferred to a different bill; it is a different issue than the main focus of the bill.
242	Burton Weast	Oregon Association of Plumbing, Heating and Cooling Contractors, agrees with previous comments and opposes HB 2041.
	Gary Wright	Plumbers and Steamfitters, Local 290, supports comments about language on page 4, line 29 being removed.
256	Shawn Miller	Associated Builders and Contractors, opposes HB 2042 because they would rather go through the board process than go to court.
270	Stephen Kafoury	Oregon Remodelers Association, supports Mr. Keudell's comments.
283	Fred VanNatta	Oregon Building Industry Association, agrees with Mr. Keudell's testimony that most of the legislation should be tabled, except the \$250 and the \$1,000 mediation limit.

294	Chair Beyer	Closes public hearing on HB 2042.
304	Chair Beyer	Opens public hearing on HB 2043.
<b><u>HB 2043 - PUBLIC HEARING</u></b>		
314	Putman	Reviews HB 2043.
322	Ken Keudell	Administrator, Construction Contractors Board, submits prepared statement and testifies in opposition to HB 2043 (EXHIBIT E).
375	Rep. Taylor	Asks for more explanation of why the board opposes the mission statement.
387	Wendy Robinson	Assistant Attorney General, explains the importance of having the mission statement in the statutes.
408		Discussion continues on why the mission statement should be in the statutes.
424	Mike Scott	Power Rents and Oregon Equipment Rental Association, reviews his prepared statement suggesting language for a mission statement (EXHIBIT F).
<b>TAPE 6, B</b>		
025	Scott	Continues presentation and asks that all rights of all people in the construction industry be recognized.
		Discussion is held on the importance of education.
054	Fred VanNatta	Oregon Building Industry Association, believes HB 2043 is an extremely important bill and urges the committee to table the bill. Reviews history of previous mission statements.
114	Chair Beyer	Closes public hearing on HB 2043.
119	Putman	Advises the committee all but one of the bills will require a work group and asks if the participants can have the proposed amendments in by next Tuesday.
133	Rep. Montgomery	Comments it is important that the participants have their amendments and agreements to the committee by next Tuesday.
144	Chair Beyer	Adjourns meeting at 10:05 a.m.

Submitted By, Reviewed By,

Annetta Mullins, Keith Putman,

Administrative Support Administrator

**EXHIBIT SUMMARY**

A - HB 2039, prepared statement, Ken Keudell, 1 p

B - HB 2040, prepared statement, Ken Keudell, 1 p

**C - HB 2041, prepared statement, Ken Keudell, 1 p**

**D - HB 2042, prepared statement, Ken Keudell, 1 p**

**E - HB 2043, prepared statement, Ken Keudell, 1 p**

**F - HB 2039, 2040, 2041, 2042, 2043, prepared statement, Mike Scott, 2 pp**