

HOUSE COMMITTEE ON GENERAL GOVERNMENT

March 31, 1997 Hearing Room D

1:00 P.M. Tapes 58 - 60

MEMBERS PRESENT:

Rep. Ken Strobeck, Chair

Rep. Dan Gardner, Vice-Chair

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Kurt Schrader

Rep. Liz VanLeeuwen

Rep. Tom Whelan

STAFF PRESENT:

Jeri Chenelle, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2854 - Public Hearing

HB 2104 - Public Hearing

HB 2491 - 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 58, A		
003	Chair Strobeck	Calls meeting to order at 1:04 p.m.
004	Chair Strobeck	Explains that he has introduced HB 2854 because of complaints of delays of construction, and the requirement that the Oregon Department of Transportation (ODOT) has to take the lowest bid and cannot consider past performances of the contractor.

030	Doug Tindall	Field Services Engineer, Oregon Department of Transportation, testifies on HB 2854 (EXHIBIT A).
		Issues discussed:
054		* concern for challenge in court
		* whether rejection could mean a contractor could never get another bid
		* ability to prequalify contractors
		* delays on projects can be due to various reasons
		* provisions for disqualification of bidders
104		* ability of the department to attach the performance bond
120	Chair Strobeck	Asks that Mr. Tindall meet with the Associated General Contractors (AGC) to work on criteria that would be measurable.
130	David Douthwait	Government Relations Manger for the Oregon/Columbia Chapter of Associated General Contractors (AGC), testifies in support of HB 2854 (EXHIBIT B).
159	Rep. Montgomery	Asks if local governments have a prequalification process.
	Douthwait	Responds he believes they rely on ODOT's process.
178	Rep. Hill	Asks if AGC would support changing ORS 279.037 from may to shall.
184	Douthwait	Responds he believes it is incumbent on the agency to carry out the statutes.
190	Rep. VanLeeuwen	Asks if there is a black list by ODOT for people who don't meet their qualifications.
199	Tindall	Responds there is no black list. There are contractors who apply to be qualified that may not receive that qualification based on the current factors in statutes--bonding ability and breaches of contract.
209	Rep. VanLeeuwen	Asks what the prequalification criteria is.
	Tindall	Responds that Rep. Strobeck's concern is the criteria does not consider past performance.
218	Chair Strobeck	Comments he wants to make sure we are spending transportation dollars effectively because he was told it is impossible to discriminate other than on price.
232	Rep. Hill	Asks what the prequalification practices are.
238	Tindall	Replies if a bidder can get bonded he/she would be considered financially qualified. Adds there are other criteria, also.
262	Rep. Hill	Asks at what point ODOT enters into a prequalification requirement under 279.037.
	Tindall	Responds that all contractors who bid on ODOT projects have to be on the prequalified list.

260	Rep. Hill	Asks how many times a contractor has been disqualified.
	Tindall	Responds that ODOT has never invoked that provision.
274	Chair Strobeck	Asks that Mr. Tindall and Douthwaite work together on some suggestions for the bill.
303	Bill Penhallow	Association of Oregon Counties, testifies in support of HB 2854 and asks that the bill be extended to include local governments, at least for public works.
		* action should be taken in prequalification process and not after the contractor has gone to the expense and time of submitting a bid
		* Section 1(a) says "public contracting agency shall award the contract to the lowest responsible bidder", and on page 2, "lowest responsible bidder" is defined.
		* bill suggests (1)(b) would supersede language on page 2, but believes that would be an inappropriate time
		* ORS 279.037 talks about disqualification of a bidder * reads ORS 279.037 (1) (a) and testifies that if a person can get a bond that establishes that they have appropriate equipment and the personnel available to do it, the only issue is whether they have repeatedly breached a public or private contract * notes it is not an accusation they have violated a contract; would guess that the courts would need to establish that there was an adjudicated breach
403		* have urged previously that the word "repeatedly" in (ORS 279.037(1) (d) be deleted so a public agency could consider that as a reason for disqualifying a bidder if a court has found that a contract has been breached
414		* ORS 279.047 talks about effect of prequalification with ODOT or the Oregon Department of Administrative Services; that gives the contractor a certain standing and it becomes the responsibility of the public agency or local government to dispute the qualifications
437		* would be happy to work with the committee to develop new language
419	Chair Strobeck	Asks that Mr. Penhallow work with Mr. Tindall and AGC, closes the public hearing on HB 2854, and opens the public hearing on HB 2104.
<u>TAPE 59, A</u>		
<u>HB 2104 - PUBLIC HEARING</u>		
017	Jeri Chenelle	Reviews provisions of HB 2104.
	Steve Barnum	Executive Director, Oregon Racing Commission, reviews summary of HB 2104 (EXHIBIT C).
050	Barnum	Continues presentation on Section 1.

		Issues discussed:
066		* reasons for separating race tracks
		* differences in sizes of tracks
083		* fundamental changes in racing; racing does not have a monopoly on gambling
112		* allowance to have horse and dog racing at the same facility, not on the same track
120	Barnum	Reviews Section 3 (EXHIBIT C).
130	Barnum	Reviews Section 4.
150	Rep. Gardner	Asks why they are proposing to lower the rate.
153	Barnum	Explains it is to bring the statute in line with the ORS 464.062 and 462.067, the commercial horse race and greyhound racing statutes.
177	Barnum	Reviews Sections 5 and 6 (EXHIBIT C).
206		Continues reviewing Section 6, adds that HB 2195, the Governor's Task Force on Gaming bill, has similar provisions and offers to work with committee staff to make sure language is the same.
		Issues discussed:
		* applications for new licenses
237	Chair Strobeck	Asks if this would apply to simulcasts also.
	Barnum	Explains a simulcast can only be done by a licensee who is running live racing.
234	Rep. Hill	Asks why the awards are listed in the statutes.
	Barnum	Gives history of paramutual wagering since 1933, explains that racing originally was intended to support agriculture, and that the commission is to protect the animals and the people.
315	Rep. Hill	Ask why a ticket cannot be sold to a visibly intoxicated persons, but it is acceptable to allow a drunk person to sit at a video poker terminal.
319	Barnum	Responds he cannot explain, and adds that neither could the Governor's Task Force on Gaming; they took it out of the racing statutes and have included in HB 2195 a provision to prevent that from happening at the lottery machines.
334	Barnum	Reviews Sections 7 and 8 of HB 2104 (EXHIBIT C, page 2).
403	Rep. Hill	"I DECLARE A POTENTIAL CONFLICT OF INTEREST SINCE I WORK FOR AN INTERNET SYSTEM."
406	Rep. Hill	Asks how they will determine if a user on the internet resides in Oregon.
416	Barnum	Responds it would be very difficult to have someone tracked, but they set up accounts and if they use credit cards, the race tracks would get the addresses.
TAPE 58, B		

013	Rep. Hill	Asks if it is permissible to wager over the telephone system in the U.S.
	Barnum	Responds he has read that the whole process is being challenged; it is a gray area even though there is federal statute saying you can't do it.
030	Barnum	Reviews Section 9 (EXHIBIT C).
057	Rep. Gardner	Asks what, other than working with animals, a nine year old would do.
	Barnum	Agrees most would be with the racing animals.
086	Rep. VanLeeuwen	Asks what constitutes the "race course."
	Barnum	Responds it is everything involved in racing.
093	Rep. Gardner	Asks if the facilities are safe for children.
	Barnum	Responds he feels it is as safe as the Rose Garden, but there are concerns.
115	Barnum	Reviews summaries of Sections 10 - 12 (EXHIBIT C).
158	Chair Strobeck	Asks if there would have to be separate areas for children under 12.
163	Barnum	Responds the restricted areas would be areas where alcohol is served which would go along with OLCC requirements and their licensing, and also the actual wagering area.
164	Rep. Strobeck	Asks if amendments are being proposed in lines 38 and 40.
	Barnum	Responds affirmatively.
169	Chair Strobeck	Announces that an amendment is being requested by Rep. Lynn Lundquist (EXHIBIT D) and asks if Mr. Barnum has a problem with the proposed amendment.
186	Barnum	Responds he does not.
	Chair Strobeck	Closes public hearing on HB 2104 and opens public hearing on HB 2491.
<u>HB 2491 - PUBLIC HEARING</u>		
190	Jeri Chenelle	Reviews provision of HB 2491.
194	Andrea Boyle	Testifies in support of HB 2491 (EXHIBIT E).
240	Boyle	Continues presentation.
260	Boyle	Continues presentation.
		Issues discussed:
283		* whether intent is only to cover employee records; intent was not to have other agencies involved

350		* public employee privacy versus privacy of employee of private company
376		* intent is to protect home addresses and phone numbers.
399	Marie Keltner	Representing the League of Oregon Cities (LOC) and Association of Oregon Counties (AOC), testifies that both organizations support HB 2491.
408	Connie Wiggins	Personnel Director, City of Salem, testifies in support of HB 2491:
		* city receives approximately one request per year for all employee home addresses and telephone numbers
		* city is concerned with release of information
		* city sent notification to all city employees advising them the city was about to release home addresses and phone numbers; over 400 requests were received asking for exemption from the public record, but they could not be granted
		* numerous employees threatened lawsuits
		* city spent hundreds of hours reviewing the exemption requests
435		* union representatives were concerned with release of home addresses and phone numbers and are in support of restricting access
		* management employees also are in support
TAPE 59, B		
018	Rep. Hill	Comments he has no problem with restricting access to home addresses and telephone numbers, and comments his only concern is whether it also covers other documents such as expense reports which should generally be open for public review, and whether the home address could be blacked out
027	Wiggins	Responds they are only asking for restriction on home addresses and telephone numbers; the other information is public information and they are not asking for restriction on those.
029	Chair Strobeck	Asks Ms. Boyle if they are also talking about somebody acting in their official capacity as an employee, not as a property owner, or voter, or something like that.
030	Boyle	Respond that is correct.
032	Chair Strobeck	Suggests they would not be opposed to an amendment to make the intent clear.
	Boyle	Agrees.
040	Jeb Bladine	Publisher, News-Register Publishing Co., representing the Oregon Newspaper Publishers Association, testifies on HB 2491 and suggests amendments (EXHIBIT F).
080	Bladine	Continues presentation
		Issues discussed:
		* whether addresses of private employers should be available upon

101		demand
119		* elected officials' addresses should be available
136		* restriction of press activities due to lack of information
185		* access to board or commission members' information
212	Rich Peppers	Oregon Public Employees Union, testifies that he signed up as opposed to the bill because he wishes to suggest an amendment, but they agree with the intent of HB 2491. Union has two concerns with bill:
		* concerned that bill might be read to allow an employer with whom they have a contract to argue that the law no longer requires disclosure
		* also concerned where the union does not represent the employees but the employees are trying to organize
		* most effective communication is by notices to peoples' homes, notices of meetings in the community, and visits in homes as opposed to the workplace
260		* concerns could be addressed by an amendment to exempt employee organizations from the implications of the bill and would be happy to work with someone if the committee were so inclined
253	Ed Edwards	Director of Government Relations, Oregon School Employees Associations, comments he supports Mr. Pepper's testimony, and adds they have a concern over access to those people they represent. Communication is key element. In 1995 , SB 750 gave the employer the right of open communication during the collective bargaining process. Testifies that passage of this bill without an exemption for labor organizations will put the unions at a disadvantage, and that the union has an obligation to communicate with fair share non-members of the organization and must communicate with them through the mail.
313	Rep. Montgomery	Comments he would not support an amendment for the unions.
324	Rep. Schrader	Comments he wants to check to make sure they can get the notice.
	Peppers	OPEU's position has been open and actually believes the current law could be expanded to allow for the concerns of the person who requested the bill.
369	Chair Strobeck	Asks how often they communicate with the employees at home.
	Peppers	Explains it is probably once a month, but it depends on circumstances.
TAPE 60, A		
002	Rep. Whelan	Suggest a way to deal with the release of information might be in the Collective Bargaining Act.
011	Rep. Hill	Comments he is not interested in maintaining the union membership records and would not support any exemptions.
019	David Schaff	City of Portland, Bureau of Personnel, testifies in support of HB 2491.

		* city has many employees such as Ms. Boyle, inspectors, fire investigators, arson investigators, code enforcers, building plan examiners, people who track people, planners, 911 operators, people who collect on liens, people who collect money for water and sewer bill, employees in public safety, people who write tickets for parking, attorneys--all subject to potential harassment
		* concerned that public employee can be at potential risk
		* have complied with previous requests, but employees have been shocked that the city complied
		* notified employees their names and addresses were subject to being released and they could get an exemption
		* of 5,000 employees, 3,500 asked to have their names and addresses exempted
048	Rep. Montgomery	Asks how much it costs the taxpayers to provide the information.
	Schaff	Responds they did charge Oregon Taxpayers United approximately \$200.00.
061	Rep. Hill	Asks if employees are required to give employers their home phone numbers.
078	Schaff	Responds he does not know if there is a state law, but the City of Portland requires personal information.
078	Greg Zerzan	<p>Representing Commercial Information Systems (CIS), introduces Amanda Williams, representative of the Process Servers, and testifies in opposition to HB 2491 (EXHIBIT G).</p> <p>* cites ORS 192 and testifies that if a creditor seeks information on a person who happens to be a public employee, under this bill, the county recorder's office would not be able to give the name or address of that person, and that the same would be true for motor vehicle records</p> <p>* ORS Chapter 192 applies not only to public employees, but anyone who has information before the public.</p> <p>* The greater problem of limiting access to public records pertains not only to public employees, but to all citizens and cannot be fixed with a stop gap measure which would limit the access of people who have legitimate needs to get the records</p>
108	Amanda Williams	<p>Oregon Association of Process Servers, testifies in opposition to HB 2491:</p> <p>* believes their purpose is to protect public employees and to limit access to records relating to employment</p> <p>* does not believe requester's intent was to limit access to DMV records, mortgage records, etc.</p>

		* hopes to clarify language
133	Rep. VanLeeuwen	Notes that other existing bills include provisions on the limiting of records.
	Schaff	Adds that CIS'S concern is the issue of public records being taken on piece by piece.
142	Chair Strobeck	Advises that HB 2491 will be rescheduled for another hearing and adjourns the meeting at 3:05 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jeri Chenelle,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2854, prepared statement, Doug Tindall, 1 p

B - HB 2854, prepared statement, David Douthwaite, 1 p

C - HB 2104, summary of HB 2104, Steve Barnum, 4 pp

D - HB 2104, HB 2104-1 proposed amendments, Rep. Lynn Lundquist, 2 pp

E - HB 2491, prepared statement, Andrea Boyle

F - HB 2491, prepared statement, Jeb Bladine, 1 p

G - HB 2491, prepared statement, Gregory Zerzan, 1 p