

**HOUSE COMMITTEE ON GENERAL GOVERNMENT**

**May 5, 1997 Hearing Room D**

**1:00 P.M. Tapes 96 - 97**

**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 2321 - Work Session**

**HB 3680 - Work Session**

**HB 3386 - Work Session**

**HB 3666 - Work Session**

**HB 3370 - Work Session**

**HB 2910 - Work Session**

**HB 3473 - 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
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<b>Tape 96, A</b>		
005	Chair Strobeck	Calls meeting to order at 1:05 p.m. and opens the work session on HB 2321.
<b><u>HB 2321 - WORK SESSION</u></b>		
013	Jeri Chenelle	Administrator, reviews provisions of the bill and the -3 amendments ( <b>EXHIBIT A</b> ).
025	Susan Townsend	Oregon Department of Justice, explains the -3 amendments ( <b>EXHIBIT A</b> ).
057	Chair Strobeck	Asks what language addresses Associated General Contractor's concern.
	Townsend	Responds it is on page 1, lines 10 and 15.
071	David Douthwaite	Government Relations Manager, Associated General Contractors, confirms testimony of Townsend, and comments that their concern under the -2 amendments and this bill was to make sure that any review is completed before the contractor has started work so there would be no danger of them not being able to get paid. Adds he also has concern under the -2 amendments.
080	Rep. Schrader	Explains the HB 2321-2 amendments ( <b>EXHIBIT B</b> ):
		* attempts to bring in the attorney general's concern of phasing in contracts
		* also includes SB 139
		* goal of both bills is to have the contracts reviewed before they are let
		* two types of contract review are required: legal sufficiency and the SB 139 language
107		* for the business aspects of the contracts, DAS is the responsible authority; they can delegate the authority if an agency has a track record and has the qualified personnel
		* the .712 and .727 are the key aspects
		* contentious areas will be the cost overruns and phase contracts; aim was to have a total plan presented and bid on
135	Douthwaite	Comments they have reviewed the Senate bill and testified before the Senate committee. Concerns are in Section 14 on page 13 of the -2 amendments which deals with pre-qualification and explains if the contractor is rejected by the agency, then this bill allows the contractor to appeal; this bill would lengthen the time between notice when the contractor is told he does not qualify from 10 to 30 days. Concern is to make sure the decision is reached and the contractor has a chance to bid on the procurement, but if it is extended to 30 days, the contractor may not be able to bid on it. Adds he understands there is a problem having a hearing within the 10-day period, and if that is the case, then perhaps the

		time the notice is given to the contractor should be backed up so there is time to get it resolved before the bids come in.
156	Douthwaite	Comments their second concern is in Section 10, the amendment to the criteria the agency must find in exempting a contract from competitive bidding. Explains there are two criteria, 1) this amendment would remove "substantial" and therefore there would only have to be cost-saving to the public agency, and 2) "substantial" should be used and be the appropriate measuring stick.
176	Townsend	Comments she has looked at the -2 amendments, and thinks there are some technical issues with drafting. Adds that statutes have been cobbled together over the years and are difficult to untangle.
185		Adds that in the original bill there was deletion of "personal" services and probably changes the whole interaction between 291 and 279. Suggest the committee look at the technical language of the bill to try to get the language where Rep. Schrader wants to go technically. Adds with respect to the first amendments, on the new Section 2(a) of the -2 amendments, it needs to say, in order to make sure the Department of Justice has the interim period, "notwithstanding the provisions of subsection (2)(1) during the period of the effective date", the one-year period, otherwise there will be no phase in.
202	Townsend	Thinks other technical amendments need to be done; one amendment in the A-Engrossed to SB 139 may have been inadvertently deleted on the exemptions. Adds that where there is a provision that exempts any state agency that has authority to enter into contracts, and during the hearings on SB 139, discussion was held that the exemption probably eats up the whole rule; at that point this probably does not apply to any agency.
214	Townsend	Adds that agencies probably want to comment on the policy.
221	Rep. Schrader	Responds he has no problems with the suggestions.
211	Chair Strobeck	Notes there are some who want to talk about the policy, and asks that Rep. Schrader get additional amendments.
236	Kay Brown	Oregon Department of Fish and Wildlife, testifies about concerns with the HB 2321-2 amendments ( <b>EXHIBIT C</b> ).
295	Paul	Oregon Department of Fish and Wildlife, explains contracting projects and procedures.
312	Rep. Schrader	Comments those who bid on the project should do the soil samples and will then know the true costs in order to make a true profit.
325		Discussion continues on the process used by the Department of Fish and Wildlife.
355	Brown	Comments on contracting work for enhancement programs and the Oregon Coastal Salmon Restoration Plan and states concerns for delays.
		Issues discussed:
370		* ability of ODFW to work with DAS
401		* renewal of contracts

410	Chair Strobeck	Suggests Rep. Schrader include a provision relating to renewal of contracts.
<b>TAPE 97, A</b>		
002	John Cutty	Chief Information Officer, Department of Human Resources (DHR), comments they have spoken with Rep. Schrader and hope to suggest language that will address concerns of the department.
		* department has been doing things to try to get away from problems
		* introduced "phase development" dividing a large concept into smaller pieces to better manage risk
		* concern the 10 percent language and the language about not allowing phases will not enable the department to continue what they have been doing for a couple of years and is working
026	Don Charleton	Chief Financial Officer, Oregon Department of Human Resources, agrees with concept Rep. Schrader is getting at. Explains phased projects. Also agrees when contractor agrees to provide a service for a price, the service will be delivered for that price.
		Adds the department wants to make sure they can continue to manage IS projects and other projects with the defined plan and controlled risks along the way, and they are willing to do whatever it takes.
043	Charlton	Also wants to ensure the 10 percent limit does not get in the way. Gives example of services for children with limited providers.
		Asks for opportunity to provide clarifying language to be able to carry on business.
062		Issues discussed:
		* status of current IS projects in DHR
080	Chair Strobeck	Closes the work session on HB 2321 and opens the work session on HB 3680.
<b><u>HB 3680 - WORK SESSION</u></b>		
082	Jeri Chenelle	Administrator, reviews provisions of HB 3680 and the -2 amendments <b>(EXHIBIT D)</b>
096	Chair Strobeck	Comments that testimony was compelling on this measure and that he has contacted the Co-Chair of Ways and Means regarding the funding package; he indicated they would be more favorably inclined to one million dollars than twelve million and that is why the amendments have been revised.
110	Chenelle	Advises members that the HB 3680-3 amendments arrived shortly before the meeting; explains the amendments <b>(EXHIBIT E)</b> .
114	John Beaulieu	Department of Geology and Mineral Industries (DOGAMI), reports he has been working with David Yandell of Office of Emergency Management (OEM) and is happy with the -3 amendments <b>(EXHIBIT</b>

		<b>E).</b>
124	David Yandell	Office of Emergency Management, comments that a number of changes in the -2 and the -3 amendments result from input at the April 18 public hearing. Reviews the issues.
143	Chair Strobeck	Asks if DOGAMI is normally associated with the work of OEM.
145	Yandell	Responds they work very closely with geology in areas that specifically deal with hazards that specifically pertain to geology. OEM recognizes DOGAMI has significant expertise in the area of mitigation that the traditional players in OEM may not possess; it is to everyone's benefit to have DOGAMI at the table when they are developing policy that pertains to mitigation on a state-wide basis.
157	Rep. VanLeeuwen	Asks if an amendment is needed for the volunteer organizations.
168	Yandell	Explains the -1 amendments were proposed to clean up some housekeeping language, and to establish some of the changes in the philosophy that the original house bill contained. Adds that after the public hearing on April 18 and with recognition that funding would be difficult, the -2 amendments were proposed and incorporated the applicable amendments from the -1 amendments; the -1 amendments can be ignored. Adds that any changes to be considered are in the -2 amendments, and that the -3 is a separate amendment.
190		Discussion is held on volunteer organizations.
216	Chair Strobeck	Informs members that all paper work has not been received, but the committee could adopt the amendments.
220	Rep. Gardner	<b>MOTION: Moves to ADOPT HB 3680-3 amendments dated 04/30/97.</b>
222		<b>VOTE: 7-0</b>
	Chair Strobeck	<b>Hearing no objection, declares the motion CARRIED.</b>
223	Rep. Schrader	<b>MOTION: Moves to ADOPT HB 3680-2 amendments dated 04/24/97.</b>
226		<b>VOTE: 7-0</b>
	Chair Strobeck	<b>Hearing no objection, declares the motion CARRIED.</b>
228	Chair Strobeck	Closes the work session on HB 3680 and opens the work session on HB 3386.
<b>HB 3386 - WORK SESSION</b>		
		Administrator, reviews provisions of HB 3386, the HB 3386-2

240	Jeri Chenelle	amendments ( <b>EXHIBIT F</b> ), the HB 3386-3 amendments ( <b>EXHIBIT G</b> ), the HB 3386-4 amendments ( <b>EXHIBIT H</b> ), and informs the committee the HB 3386-5 amendments ( <b>EXHIBIT I</b> ) have just been received.
263	Paul Romain	Oregon Beer and Wine Distributors Association, testifies in opposition to HB 3386:
		* manufacturers require distributors to carry inventory for 30 to 45 days
		* retailers get deliveries twice or three times a week
		* extension of credit of five days to distributors for beer delivery, has no relationship to the sale of product
310		* if stores are given 15 days credit and are moving product twice a week, there is a huge amount of "float" the retailer is dealing with
		* reviews history of liquor laws to keep the wholesale tier separate from the retail tier
326		* if the law is changed, the only effect will be to put a major financial burden on wholesalers to give shift to the retailer
		* two years ago in Senate a grocer was asked what he would do with the money savings and his response was he would put it in his pocket; it will not be passed on to the consumer
		* wholesalers will have to raise their price to cover the cost of interest; the price increase will be passed on to the consumer because the retailer is going to mark it up also
		* asks why change the process and shift the burden to the wholesaler
380		* after the prohibition, system was set up so no one part of the industry could not control the other part; thus the Tied House laws--no credit, no loans, no influence, no ties over the business
393		* government interferes with business; Tied House laws are probably the best anti-trust laws on the books
400		* the wine and beer industries are opposed to the extension of credit
		* the reason there are so many products on the market shelf is because they do not sell shelf space; extension of credit allows the buying of shelf space
415		* Oregon has reputation of being one of the cleanest states and is one of the best states in which to do business because there is vigorous enforcement by the OLCC
		* 33 states do not allow credit for beer sales
434		* little guy survives in Oregon because what gets on the shelf is what sells
		* gives example of cake mixes being on the shelf
		* suggests it is more likely that the beer and wine laws will apply to all other products and it is to do away with the protections in the beer and wine industries
475		* local people are opposed to extension of credit

TAPE 96, B		
		Issues discussed:
035		* whether it is legal to buy shelf space in Oregon
		* states which do and do not allow credit
081	Steve McCoid	Oregon Grocery Industry Association, comments the HB 3386-5 amendments ( <b>EXHIBIT I</b> ) may be in response to the Oregon Winegrowers Association's concerns discussed at the previous hearing.
089		Rebuts testimony by Romain:
		* if there is cost for the distributor to extend credit, the resulting savings to the retailer is going to be passed along to the consumer
		* retailer prices are set to reach a return on investment; it will be put back into the business and will not go into their pockets
		* it is illegal to buy shelf space for beer and wine and will continue to be if credit is allowed
111	McCoid	Continues explaining issue of shelf space and costs in the industry.
160	Chair Strobeck	Advises the committee can discuss the -2, -3, and -4 amendments, and will talk about the -5 at a future meeting.
171	<b>Rep. Gardner</b>	<b>MOTION: Moves to ADOPT HB 3386-2 amendments dated 04/24/97.</b>
178	Rep. VanLeeuwen	Asks if the HB 3386-2 amendments have the courts decide, instead of the OLCC.
	Chair Strobeck	Responds affirmatively.
187	Rep. Hill	Asks why they would go to court.
188	McCoid	Explains the amendments were drafted in response to concerns by the OLCC in the initial draft that they would become the "credit police" for the wholesalers.
220		Discussion continues on OLCC involvement in complaints.
238	Rep. Hill	Notes that he objects to the HB 3386-2 amendments.
240	Rep. Montgomery	Comments on the number of amendments to the bill, that he does not understand the hurry, and that the committee should wait until the whole package is together. "I will abstain because I don't know where we stand on this bill until we get all the amendments in here. Then we can get it out."
251	Chair Strobeck	Acknowledges statement by Rep. Montgomery.
251		<b>VOTE: 3-3</b>  <b>AYE: 3 - Gardner, Schrader, Strobeck</b>  <b>NAY: 3 - Hill, VanLeeuwen, Whelan</b>

		<b>BY IMPLIED CONSENT AND IN COMPLIANCE WITH HOUSE RULE 3.25, REP. MONTGOMERY IS EXCUSED.</b>
	<b>Chair Strobeck</b>	<b>The motion FAILS.</b>
262	Chair Strobeck	Explains his intent was to adopt the -2, -3, and -4 amendments because they do not conflict with each other, and wait until the final paperwork is received on the -5 amendments to take action on them.
<b>280</b>	<b>Rep. Hill</b>	<b>CHANGES HIS VOTE TO AYE IN ORDER THAT THE MOTION TO ADOPT THE HB 3386-2 AMENDMENTS PASSES.</b>
<b>281</b>	<b>Chair Strobeck</b>	<b>The motion PASSES.</b>
286	Chair Strobeck	Closes the work session on HB 3386 and opens the work session on HB 3666.
<b><u>HB 3666 - WORK SESSION</u></b>		
291	Rep. Gardner	Reviews provisions of HB 3666, and advises the HB 3666-4 amendment ( <b>EXHIBIT J</b> ) have a drafting error; in line 7, after "contracting agency" insert "or agencies", and explains purpose of the amendments. Explains that the HB 3666-3 amendments ( <b>EXHIBIT K</b> ) had a one-strike-and-you-are-out clause, and that a Section 2 has been added in the -4 amendments.
	Gardner	Explains his intent is that as there is contracting out with more non-profit and for-profit organizations, which is with state money, there is a level of accountability with any city, county, or state agencies, and we should have the limited availability of records from those who contract with the state. Adds that Children's Services has advised they will not oppose the bill with the -4 amendments.
332	Rep. VanLeeuwen	Asks how one group can ease the concern of everyone on all other non-profits.
	Rep. Schrader	Responds that other non-profits have not wanted to work on the bill; they have only said they will oppose it.
370		Discussion is held on requests for information from non-profit groups.
396	Chair Strobeck	Advises because the amendments are new, the bill will be brought back at a later date, closes the work session on HB 3666 and opens the work session on HB 3370.
<b><u>TAPE 97, B</u></b>		
<b><u>HB 3370 - WORK SESSION</u></b>		
	<b>Chair</b>	Advises members that a letter has been received from Joseph Barkofsky, Legislative Counsel, because of the concern of whether the whole concept



	<b>Strobeck</b>	of system development charges (SDCs) conflicted with various provisions of Article XI of the Oregon Constitution ( <b>EXHIBIT L</b> ).
015	Rep. Schrader	Explains HB 3370-3 amendments ( <b>EXHIBIT M</b> ).
036	Rep. Schrader	Continues explanation.
073	Rep. Schrader	Explains Section 5 of the HB 3370-3 amendments.
		Issues discussed:
083		* definition of affordable housing
123		Discussion continues on affordable housing.
128	Rep. Schrader	Continues explanation of HB 3370-3 amendments ( <b>EXHIBIT M</b> ).
153	Rep. VanLeeuwen	Asks for explanation of the language on page 3 in lines 26-29.
	Rep. Schrader	Explains intent of the language.
172	Rep. Hill	Asks if language on page 3, (b)(3) would say that no one would pay a school impact fee, or whether they would pay the fee and get credit if the voters impose a bond to build the schools.
193	Rep. Schrader	Explains how it would work.
205	Rep. VanLeeuwen	Comments that she understands that if there was already a need, the new housing would be assessed for the need they might create beyond the existing need. Asks what is meant by (a), page 3, line 26-29.
222	Rep. Schrader	Explains that the impact fee would only be a portion of the new school construction costs, probably in the 25-30 percent range; everyone else will have to pay the 75 percent.
233	Chair Strobeck	Advises that the committee will not move on the bill today.
248	Rep. Whelan	Comments he would like to have assurance that future residences, if this were adopted, would be paying only their fair incremental share of the costs associated with new construction.
258	Chair Strobeck	Closes work session on HB 3370, announces that the committee will not consider HB 2910, and opens the public hearing on HB 3473.
<b><u>HB 3473 - PUBLIC HEARING</u></b>		
262	Jeri Chenelle	Administrator, reviews provisions of HB 3473, advises that the HB 3473-2 amendments ( <b>EXHIBIT .N</b> ) replace the original bill, and that the members have a letter explaining the Senate action on HB 2186 ( <b>EXHIBIT O</b> ).

277	Rollie Wisbrock	Chief of Staff, Office of State Treasurer, submits statement ( <b>EXHIBIT P</b> ) and testifies in support of HB 3473 with the -2 amendments.
344	Wisbrock	Continues explanation of the -2 amendments.
361	Rep. VanLeeuwen	Asks if a concern previously was with the high risk investments that may be made.
	Wisbrock	Agrees and explains the amendment to address her concerns
414	Chair Strobeck	Closes the public hearing and advises that the final paperwork has not been received and therefore the committee cannot act on the bill.
425	Chair Strobeck	Adjourns meeting at 2:55 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jeri Chenelle,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2321, HB 2321-3 amendments, Susan Townsend, 2 pp**

**B - HB 2321, HB 2321-2 amendments, Rep. Schrader, 29 pp**

**C - HB 2321, prepared statement, Kay Brown, 2 pp**

**D - HB 3680, HB 3680-2 amendments, staff, 5 pp**

**E - HB 3680, HB 3680-3 amendments, David Yandell, 1 p**

**F - HB 3386, HB 3386-2 amendments, Steve McCoid, 2 pp**

**G - HB 3386, HB 3386-3 amendments, Rep. Strobeck, 1 p**

**H - HB 3386, HB 3386-4 amendments, Rep. Strobeck, 1 p**

**I - HB 3386, HB 3386-5 amendments, Steve McCoid, 2 pp**

**J - HB 3666, HB 3666-4 amendments, Rep. Gardner, 2 pp**

**K - HB 3666, HB 3666-3 amendments, Rep. Gardner, 2 pp**

**L - HB 3370, letter from Joseph Barkofsky, Rep. Strobeck, 2 pp**

**M - HB 3370, HB 3370-3 amendments, Rep. Schrader, 4 pp**

**N - HB 3473, HB 3473-2 amendments, Rollie Wisbrock, 2 pp**

**O - HB 3473, letter, Mari Anne Gest, 1 p**

**P - HB 3473, prepared statement, Rollie Wisbrock, 5 pp**