

HOUSE COMMITTEE ON GENERAL GOVERNMENT

May 9, 1997 Hearing Room D

1:00 P.M. Tapes 100 - 102

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 3409 - Work Session

HB 3275 - Work Session

HB 2764 - Work Session

HB 2443 - Work Session

HB 2322 - Work Session

HB 2909 - Work Session

HB 2910 - Work Session

HB 2321 - Work Session

HB 2104 - Work Session

HB 3416 - Work Session

HB 2280 - Work Session

HB 3680 - Work Session

HB 3638 - Work Session

HB 3473 - Work Session

HB 2103 - 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 100, A		
003	Chair Strobeck	Calls meeting to order at 1:14 p.m. and opens the work session on HB 3409.
<u>HB 3409 - WORK SESSION</u>		
005	Rep. Mike Fahey	Testifies in support of HB 3409:
		* bill is to clear up matters on how they store parts for cars they restore
		* car show at convention center is a class event
		* industry brings millions into Oregon
		* protections are in the bill
		* restoration is a family activity, is productive and a tradition
		Issues discussed:
		* whether there is opposition to the bill
		* neighborhood complaints
		* vehicle storage areas
039	Larry Leek	President, Western Antique Power, testifies in support of HB 3409:
		* tells of experience of purchasing property in Keizer in 1972, that the zoning has been changed and area has been surrounded by apartments
		* property was purchased as commercial property for that purpose; was cited for having vehicles
		* one complaint from one person causes a lot of problem
		* was cited for having a 1987 Jeep with new paint and top that was not licensed.
066		* some property in east Marion County has gone through three generations and has been always used as storage; zone was changed to

		EFU and it meant nothing to the county
076	Dick Larrows	President, Oregon Council of Vehicle Association, testifies in support of HB 3409:
		* owns property in Corbett
		* similar things have happened
		* explains "out of normal public view" means out of sight and not bothering the neighbors
		* "normal public view" means not standing up in the back of a pickup truck looking over the fence, not flying over with a helicopter--you would not know unless someone told you
093	Jack Kinney	Salem Automobile Council and member of the Vintage Car Club, testifies in support of HB 3409:
		* the club supports the bill because it would keep the ordinances from restricting the hobbies
		* makes clear to everyone what the rules are
		* there are different rules in the City of Keizer, Marion County and Linn County
115	Chair Strobeck	Notes it is a local government prohibition, and asks if the local governments should have the ability to prohibit people from working on cars.
115	Larrows	Responds they are trying to get something that is fair, protection from disgruntled neighbors and from developers who can use the government to their ends.
119	Kinney	Responds they want to be able to pursue their hobbies without a lot of hassle.
123	Rep. Schrader	Comments he checked with his city planner who did not think this bill is a problem because there is still some discretion.
137	Glenn Jaeger	Studebaker Drivers Club, testifies in support of HB 3409:
		* Medford person was told three years ago to fence in his cars; they changed their mind and told him his cars were visible from the air and gave him 30 days to get rid of them
		* cars represent parts for restoration of older cars
		* when orders are issued to get rid of cars in 30 days, they must be junked and the parts are gone
152	Rep. Whelan	Asks if Mr. Jaeger is aware of nuisance ordinances and how this might interplay with the ordinances.
	Jaeger	Responds some of the counties are lax and others are quite strict, some allow five to seven cars and not have be out of sight. In Portland, if they are in sight and not licensed, they can tow them off.
162	Rep. Montgomery	MOTION: Moves HB 3409 to the floor with a DO PASS recommendation.
		VOTE: 6-1

164		<p>AYE: 6 - Gardner, Hill, Montgomery, Schrader, VanLeeuwen, Whelan</p> <p>NAY: 1 - Strobeck</p>
	<p>Chair Strobeck</p>	<p>The motion CARRIES.</p> <p>REP. FAHEY will lead discussion on the floor.</p>
171	Chair Strobeck	Closes the work session on HB 3409 and opens the work session on HB 3275.
HB 3275 - WORK SESSION		
174	Rep. Lee. Beyer	Submits and explains the HB 3275-3 (EXHIBIT A) and -4 amendments (EXHIBIT B):
		* attempting to move employees in the City of Springfield's private retirement into Public Employees Retirement System (PERS)
		* city staff has worked with the Treasury office and PERS to make this happen, looking at different options
		* the work group has come to the conclusion in the HB 3275-4 amendments
186		* requests that committee disregard the -3 amendments
187		* introduces Gino Grimaldi, Assistant City Manger for Springfield and Everett Moreland, Counsel
182	Everett Moreland	Attorney, City of Springfield, explains HB 3275-4 amendments:
		* -4 amendments replace the original bill
		* amends the PERS statute to allow a city employee who is participating in PERS to waive part of the employee's PERS annuity benefit in return for an equal cash amount to be received by the employee from the City of Springfield's plan
		* city employees can take a lump sum distribution at retirement
		* bill would preserve an employee's ability to take a lump sum distribution at retirement
208	Rep. Hill	Asks if the Springfield Police Department is the only group being discussed, and whether lump sum is available to members of PERS.
213	Fred McDonnal	Director, PERS, explains that HB 3275-4 would allow Springfield to integrate into PERS much like other employers integrate into the system-- they would come into the PERS and would be eligible for a lump sum distribution.
		Adds there are a couple of differences that are unique to Springfield in the -4 amendments.
		Asks for confirmation that the persons from Springfield will receive

225	Rep. Hill	benefits no different than anyone else in PERS, and that their coming into the PERS system will have no financial effect on other members.
228	McDonnal	Responds affirmatively, and adds that any differences that would occur, and there would be some, would be the responsibility of the City of Springfield.
237	Rep. VanLeeuwen	Asks where the amendments provide for Springfield being responsible.
239	Moreland	Responds the operative part is in the -4 amendments on page 3, lines 22 through 25.
272	Moreland	Further explains PERS allows an employee to take the employee amount in cash but the employer part has to be paid in an annuity.
285		Discussion continues on lump sum and annuity payments, and options that would be available to persons from Springfield.
330	Fred McDonnal	Comments that PERS can only pay out benefits that have been authorized by the legislature, that the City of Springfield will pay its own contribution rate to make certain that the costs that are incurred as a result of this group coming in and-the City of Springfield will be billed back for any experience. Adds the minor exception is that at the retirement time, they can opt to take all their money, otherwise it is the vanilla PERS plan.
350	Rep. Hill	Comments he will be a no vote.
358	Gino Grimaldi	Assistant City Manager, City of Springfield, explains this is a temporary situation, and as new employees come in they will go in PERS.
362	Chair Strobeck	Comments the direction by the committee at the last hearing was to figure out a way to make this merge into PERS, and that this is a way to do that over time without having to have a huge bond levy or burden the taxpayers like the City of Portland is experiencing--it is essentially a merger plan that brings the employees of the City of Springfield into PERS.
375	Rep. Montgomery	Comments he shares Rep. Hills' concerns, and asks if all new Springfield employees will be members of PERS and will get the same benefits, and that Springfield will have a two-tier system until the old timers are gone.
	McDonnal	Confirms Rep. Montgomery's statement.
374	Rep. L. Beyer	Explains transition and preservation of benefits.
411	Rep. Schrader	Asks if there is any cost to the PERS system to integrate the people.
	McDonnal	Responds there is no cost for PERS administration or impact on the Trust Fund.
423	Rep. Schrader	Questions why there are no administrative costs.
429	McDonnal	Explains they have the integration system in place.
		Comments his concern is "equal to or greater than" which has been

442	Rep. Schrader	interpreted as a dollar discussion, and that his contention is that it is also a flexibility issue, and the Springfield organization made a choice not to become a member of PERS, and now they want to get their dollars as well as the flexibility.
Tape 101, A		
024	Rep. Whelan	Asks if it is a goal of PERS to integrate the unaffiliated plans.
024	McDonnal	Responds one of their charges is to try to bring the public employers into the system.
042	Rep. Gardner	MOTION: Moves to ADOPT HB 3275-4 amendments dated 05/09/97.
		VOTE: 6-1
		OBJECTION: 1 - Hill
	Chair Strobeck	Noting the OBJECTION BY REP. HILL, the motion CARRIES.
046	Rep. Gardner	MOTION: Moves HB 3275 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-2
		AYE: 5 - Gardner, Montgomery, VanLeeuwen, Whelan, Strobeck
		NAY: 2 - Hill, Schrader
	Chair Strobeck	The motion CARRIES.
052		Rep. L. Beyer will lead discussion on the floor.
053	Chair Strobeck	Closes the work session on HB 3275 and opens the work session on HB 2764.
<u>HB 2764 - WORK SESSION</u>		
062	Jeri Chenelle	Administrator, review provisions of HB 2764.
0640	Phyllis Loobey	Lane Transit District, advises that Rep. Schrader offered his assistance in writing language in response to issues brought up at the hearing, that after consultation with Tri-Met and Lane Transit District's attorney, additional work needs to be done on the language on whether or not a portion of a facility is leased for private purposes or if there is an associated development co-located on the site.
083	Chair Strobeck	Advises that the committee does not have amendments, that his intention is to move the bill as written and that changes can be made in the Senate.
089	Rep. Whelan	MOTION: Moves HB 2764 to the floor with a DO PASS recommendation.
		Comments he does not want to vote on something that will be changed;

092	Montgomery	and will be a no vote.
102	Rep. Whelan	WITHDRAWS HIS MOTION.
103	Chair Strobeck	Advises that the proponents pursue their amendments to the bill.
107	Chair Strobeck	Closes the work session on HB 2764 and opens the work session on HB 2443 (EXHIBIT C).
<u>HB 2443 - WORK SESSION</u>		
105	Jeri Chenelle	Administrator, reviews provisions of HB 2443 and the HB 2443-2 amendments.
119	David Rike	Department of Education, testifies the department supports the bill because there are several schools which run programs to rebuild and recycle computers. Department of Administrative Services (DAS) is not allowed under statute to pass through computer or science equipment to the schools; this bill corrects that.
142	Cameron Birnie	Department of Administrative Services, introduces Skip Morton, Manager, State Surplus Property, and testifies in support of the HB 2443-2 amendments:
		* DAS is authorized to transfer or sell
		* required to make property available to state agencies, local government, qualified non-profits and citizens of state
		* state sells property of state agencies and property owned by political subdivisions
		* on page 2 of amendment there is description on how DAS surplus property stays in existence; (5) says when making a gift of the property, the state would be recovering cost of disposal
		* (C) on page 1 of the -2 amendments is no problem except the priority order has DAS going first to state agencies; if state agencies don't want the computers, then DAS would make them available to the second tier, the high schools
		* the last sentence of (C) would only be possible if the donating agency or the surrendering agency wishes not to have any proceeds given back to it; it is the agency's call
171	Skip Morton	Manager, DAS Property Distribution Center, responds because they handle property for state agencies and local governments, it is difficult to isolate the part which comes through on behalf of the State of Oregon.
192		Adds that state agencies harvest the major components of computers and are able to keep the parts and maintain PCs in operation in the agencies and to keep the cost down; the resale value or reutilization value of the PCs is questionable at this point.
200	Rep. Montgomery	Asks if this means the computers would be going to schools before local government or port districts.

	Morton	Explains it would impact the ability to get good working equipment to other categories.
201	Rep. Montgomery	Comments he will be no vote.
215	Rep. Schrader	Asks why this is needed.
224	Chair Strobeck	Explains the bill was requested by Rep. Luke, Chairman of the House Education Committee, to get computers to schools without having to go through the charge, but does not believe it was their intention to cut off the other line of preference and if there is anything left over they could transfer it to the schools without having to pay any kind of fees.
250	Rep. Schrader	Asks if there is any value to the computers.
240	Morton	Responds there is always some value; secondary utilization market will take them down and computer recyclers will use the screws.
261	Rep. Hill	Comments he believes it is a reasonable approach and is permissive.
262	Rep. Hill	MOTION: Moves to ADOPT HB 2443-2 amendments dated 05/01/97.
	Montgomery	Comments he will still a no vote because it is nothing more than a feel-good thing--why not buy the schools new computers.
272	VanLeeuwen	Comments she does not think the computers are all junk.
280	Morton	Explains that computers are stripped of good components by the agencies before submitting the computers to surplus property for resale or redistribution.
292	Rep. Whelan	Comments he visited a high school and they were getting educational benefit out of the computers.
313		VOTE: 5-1 OBJECTION: 1 Rep. Montgomery EXCUSED: 1 - Rep. VanLeeuwen
	Chair Strobeck	Noting OBJECTION BY REP. MONTGOMERY, declares the motion CARRIED.
314	Rep. Hill	MOTION: Moves HB 2443 to the floor with a DO PASS AS AMENDED recommendation.
318		VOTE: 4-2 AYE: 4 - Gardner, Hill, Whelan, Strobeck NAY: 2 - Montgomery, Schrader EXCUSED: 1 - VanLeeuwen
	Chair	The motion CARRIES.

	Strobeck	REP. HILL will lead discussion on the floor.
328	Chair Strobeck	Closes the work session on HB 2443 and asks committee to stand at ease from 1:55 to 2:00 p.m.
330	Chair Strobeck	Reconvenes the meeting and opens the work session on HB 2321.
<u>HB 2321 - WORK SESSION</u>		
336	Jeri Chenelle	Administrator, reviews provisions of HB 2321 and advises members they have the HB 2321-3 amendments (EXHIBIT D).
347	Chair Strobeck	Thanks Rep. Schrader for his work on this bill and adds that some of the details are not included in the -3 amendments.
343	Terry Meehan	Oregon Department of Justice (DOJ), offers to answer questions.
375	Rep. Strobeck	MOTION: Moves to AMEND HB 2321-3 amendments dated 04/30/97 on page 2, line 1, delete "this" and after "section" insert "2 of this 1997 Act", and in line 8 delete "this" and after "section" insert "2 of this 1997 Act".
		VOTE: 6-0 EXCUSED: 1 - Rep. VanLeeuwen
	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
393	Rep. Schrader	Comments he would assume and hope that DOJ will be more than willing to move ahead in a vigorous manner in the near future to improve and augment this modest contribution toward making contracts correct and in an appropriate manner.
396	Meehan	Responds that DOJ looks forward to the opportunity.
399	Chair Strobeck	Comments he believes this is an appropriate subject for an interim study.
402	Rep. Hill	Asks if it is the view of DOJ in Section 2 that says "provide for payment in excess of \$100,000..." would include any follow-on language so if a contract has a potential of going over \$100,000, it must be subject to legal review.
408	Meehan	Explains that if the contract as written is for less than the amount, DOJ probably will not see it, but if it is contemplated it would exceed, DOJ would at least see the amendment, thus the agencies would be prudent to bring the contracts to the attention of DOJ.
412	Rep. Hill	Clarifies threshold for having contract review.
426	Meehan	Responds that generally, when contracts are drawn up, they try to make it clear what the obligation of the state is, and if they contemplate further amendments, they try to make it clear that would be at the state's election. Adds that with respect to requiring an attorney general review prior to

		exceeding that amount, it would not necessarily be picked up by this provision, and that if the contract calls for or has a legal expectancy of amendments above \$100,000, then DOJ would see it.
TAPE 100, B		
022	Rep. Strobeck	MOTION: Moves to ADOPT HB 2321-3 amendments dated 04/30/97 AS CONCEPTUALLY AMENDED.
		VOTE: 6-0 EXCUSED: 1 - Rep. VanLeeuwen
	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
024	Rep. Gardner	MOTION: Moves HB 2321 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. VanLeeuwen
	Chair Strobeck	The motion CARRIES.
		Rep. Hill will lead discussion on the floor.
032	Chair Strobeck	Closes the work session on HB 2321 and opens the work session on HB 2104.
<u>HB 2104 - WORK SESSION</u>		
030	Jeri Chenelle	Administrator, explains the committee previously adopted the HB 2104-1, HB 2104-2 and HB 2104-6 amendments, and explains HB 2104 -7 amendments (EXHIBIT E).
053	Steve Barnum	Advises that the HB 2104-7 amendments were prepared by Rep. Gardner.
058	Rep. Gardner	Explains the HB 2104-7 amendments (EXHIBIT E):
		* -7 amendments were originally the -2 amendments and Mr. Barham had some objections
		* original bill called for deleting the language of 12 and under while the race is in progress; this amendment puts it back in but would not apply to a fair type exposition or state or county fair
068	Rep. Hill	MOTION: Moves to ADOPT HB 2401-7 amendments dated 05/07/97 (and by implied consent, to delete the HB 2104-2 amendments).
		VOTE: 7-0
	Chair Strobeck	Hearing no objection, declares the motion CARRIED.

070	Rep. Gardner	MOTION: Moves HB 2104 to the floor with a DO PASS AS AMENDED recommendation.
079		VOTE: 5-2 AYE: 5 - Gardner, Hill, Montgomery, Whelan, Strobeck NAY: 2 - Schrader, VanLeeuwen
	Chair Strobeck	The motion CARRIES. REP. GARDNER will lead discussion on the floor.
083	Chair Strobeck	Closes the work session on HB 2104 and opens the work session on HB 3416.
	<u>HB 3416 - WORK SESSION</u>	
086	Jeri Chenelle	Administrator, reviews provisions of HB 3416 and the HB 3416-2 amendments (EXHIBIT F).
101	Chair Strobeck	Explains the amendments narrow the provisions to not prohibit attendance at executive sessions unless someone is a party to a lawsuit being discussed, and takes out the language that said a school district would specify what was going to be reported on.
111	Rep. VanLeeuwen	MOTION: Moves to ADOPT HB 3416-2 amendments dated 05/05/97.
112		VOTE: 6-1 OBJECTION: 1 - Montgomery
	Chair Strobeck	Noting OBJECTION BY REP. MONTGOMERY, declares the motion CARRIED.
114	Rep. VanLeeuwen	MOTION: Moves HB 3416 to the floor with a DO PASS AS AMENDED recommendation.
117		VOTE: 4-3 AYE: 4 - Gardner, VanLeeuwen, Whelan, Strobeck NAY: 3 - Hill, Montgomery, Schrader
	Chair Strobeck	The motion CARRIES. REP. VANLEEUVEN will lead discussion on the floor.
124	Chair Strobeck	Closes the work session on HB 3416 and opens the work session on HB 2280.
	<u>HB 2280 -</u>	

<u>WORK SESSION</u>		
123	Jeri Chenelle	Administrator, reviews provisions of HB 2280.
135	Mike Beyerly	Deputy State Forester, Oregon Department of Forestry (ODOF), introduces Clark Seeley, and submits chart describing categories of individuals who would be eligible, and describes how they would go through the certification process (EXHIBIT G)
169	Clark Seeley	ODOF, summarizes chart (EXHIBIT G).
210	Seeley	Continues explaining chart.
		Issues discussed:
298		* number of eligible personnel
313		* retirement age
323		* prorate of benefits
335	Chair Strobeck	Suggests there are not enough votes on the committee to pass the bill.
355	Beyerly	Comments it is a system that is similar to the eligibility that the U. S. Forest Service has for their employees because they face the same kind of dilemma in identifying the actual time, and that the agency has determined, even though they are prorated in the duties they perform in a variety of programs, they are spending the time in those activities and are exposed to those hazards in performance of duties.
		Issues discussed:
373		* length of time required for retirement
424		Discussion continues on length of time of service and category of duties.
435	Rep. Schrader	Comments he would like to see something happen on this issue if possible.
437	Rep. Montgomery	Comments he can appreciate where they are coming from, but can relate to a highway crew working on the freeway in the high desert at 110 degrees, and can see reasoning later for other items.
457	Rep. Gardner	Comments he tends to favor the bill.
472	Chair Strobeck	Comments he would feel more comfortable if the proposal was for a specific job, and suggests the proponents attempt to put something together for a future session or later this session if possible.
499	Chair Strobeck	Closes the work session on HB 2280 and opens the work session on HB 3680.
<u>TAPE 101, B</u>		
<u>HB 3680 - WORK SESSION</u>		
		Administrator, reviews provisions of HB 3680 and the HB 3680-2 amendments (SEE EXHIBIT D OF COMMITTEE MINUTES)

039	Jeri Chenelle	DATED MAY 5, 1997), and the HB 3680-3 amendments (SEE EXHIBIT E OF COMMITTEE MINUTES DATED MAY 5, 1997).
050	Chair Strobeck	Notes that the committee previously adopted the amendments, and that the bill will need referral to Ways and Means.
064	Rep. Hill	MOTION: Moves HB 3680 to the floor with a DO PASS AS AMENDED AND THAT THE BILL BE REFERRED TO THE COMMITTEE ON WAYS AND MEANS in accordance with its prior referral.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Strobeck	The motion CARRIES.
075	Chair Strobeck	Closes the work session on HB 3680 and opens the work session on HB 3638.
HB 3638 - WORK SESSION		
081	Jeri Chenelle	Administrator, reviews provisions of HB 3638 and the HB 3638-6 amendments (EXHIBIT H).
090	Chair Strobeck	Comments that everyone involved agrees with the amendments
095	Rep. Hill	MOTION: Moves to ADOPT HB 3638-6 amendments dated 05/07/97.
		VOTE: 7-0
	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
097	Rep. Hill	MOTION: Moves HB 3638 to the floor with a DO PASS AS AMENDED recommendation.
098	Rep. Schrader	Comments he believes this is an opportunity to work with Metro in a very cooperative manner and to make sure their charter and statutes finally agree.
104	Chair Strobeck	Commends the participants for their work on the bill.
107		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Strobeck	The motion CARRIES. REP. SOWA will lead discussion on the floor.
110	Chair Strobeck	Closes the work session on HB 3638 and opens the work session on HB 3473.
HB 3473 -		

<u>WORK SESSION</u>		
115	Jeri Chenelle	Administrator, reviews provisions of HB 3473 and the HB 3473-2 amendments (SEE EXHIBIT N OF COMMITTEE MINUTES DATED MAY 5, 1997)
124	Rep. Hill	MOTION: Moves to ADOPT HB 3473-2 amendments dated 05/02/97.
		VOTE: 7-0
	Chair	Hearing no objection, declares the motion CARRIED.
125	Rep. VanLeeuwen	Asks what the difference in the bill is with the -2 amendments.
129	Chair Strobeck	Explains that in HB 2186 this committee eliminated the cap on investments, the Senate changed that and failed to approve the bill died on the floor; it is the same language as in HB 2186 except instead of having no cap, it puts a 65 percent cap on it.
144	Rep. Gardner	MOTION: Moves HB 3473 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
		AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES.
		REP. SCHRADER will lead discussion on the floor.
148	Chair Strobeck	Closes the work session on HB 3473 and opens the work session on HB 2103.
<u>HB 2103 - WORK SESSION</u>		
153	Jeri Chenelle	Administrator, reviews provisions of HB 2103.
162	T. J. Davis	Program Manager, Deaf and Hard of Hearing Access Program, Oregon Disabilities Commission, comments they were caught off guard by the opposition to the bill, that the bill was drafted with the support of the advisory board made up of 15 community leaders, and will probably not have an opportunity to address the dissension prior to the end of session.
		Issues discussed:
188		* whether HB 2103 is needed for the agency budget
		* number of requests for interpreters
		* agency program for providing interpreters
209		* private service providers
216		* present requirement that agency contract with a service provider
249	Chair Strobeck	Closes the work session on HB 2103 and opens the work session on HB 2322.

HB 2322 - WORK SESSION		
239	Jeri Chenelle	Administrator, reviews provisions of HB 2322.
267	Bill Cloran	Assistant Attorney General, Oregon Department of Justice (DOJ), explains amendments (EXHIBIT I) are the result of meeting with those who expressed concern at the last committee meeting, and are in the hand-engrossed version prepared by committee staff (EXHIBIT J).
307		* in the hand-engrossed version, in line 4, after "repealed", the remainder of the line should be deleted
		* bill has been changed substantially; have retained the attempt to keep a single simple process for appeal of bid and proposal decisions; are still in Sections 2 and 3
		* after discussion with the Associated General Contractors (AGC) decided to attempt to make the process look even more like the federal bid protest process in order to give the appellate courts an opportunity to provide DOJ with some guidance; in the original version it stopped with the circuit court which is not a court of record
		* in order to do that it was necessary to give a contractor who had begun to perform a contract some downside or backside protection in the event the contractor would win a protest before the agency would win a protest in the circuit court, and have a situation arise where an appellate court reversed; that has been done by adding a new section to the bill to provide means for paying that contractor if either the circuit court or the appellate court would order the contract to be terminated
351		* another change is in Section 1 that by taking out the reference to enacted in lieu of ORS 279.067 would allow the bill to be codified in ORS chapter 30 as a special proceeding; if done, it would cover all public contracts, even by agencies, departments or bodies that are not under ORS chapter 279 and would be a uniform procedure similar to the procedures in chapter 30 for the Tort Claims Act.
373		Discussion is held on repealing reference in line 4 on page 1 of the hand-engrossed bill to allow for inclusion of bill in chapter 30.
428	Cloran	Reports that one issue the group did not reach agreement on was attorney fees; DOJ version would not permit the recovery of attorney fees and AGC would like to have the ability of the prevailing party to recover attorney fees.
TAPE 102, A		
014	Schrader	Asks if the school boards agree.
	Cloran	Responds he does not know their opinion of the amendments.
		Oregon School Boards Association, testifies they do not support the amendments as drafted; the amendments drastically change the bill and understood the bill would create a clear process and a short time line in

021	Jim Green	which protesters of an award or a bid could come in, but this leaves it open for some time. Adds that under the original bill the circuit court was the sole remedy for any protest; this allows the circuit court to make that decision, doesn't put the time lines in and allows an appeal up to the court of appeals.
035	David Douthwaite	Government Relations Manager, Associated General Contractors (AGC), testifies that the amendments are a consensus document--there are some differences: believes the prevailing party in the court cases should be entitled to attorney fees, there is some concern as to whether the bill should be included in chapter 30 or in chapter 279, concerned inclusion in chapter 30 would raise a policy question as to whether the agencies exempted from chapter 279 should be covered by this bill
052	Douthwaite	Adds they suggests two provisions be added: make it applicable to all contracts where the work is not finally accepted by the public agency before the effective date of the act, and add an emergency clause as in HB 2909.
		Comments they are also working with Cloran on timing of the notice of award of the contract versus the time for the bid protest; AGC thinks they should be parallel at 10 days. Adds another issue is who gets to bring action in circuit court; as written the protester would be able to bring action in circuit court; AGC wants to make it clear that other interested parties would still be able to go under court rules and intervene or participate as the circuit court rules would allow
063	Cloran	Explains the question arose as to whether or not there could be intervenors in the circuit court under the Oregon Rules of Civil Procedures (ORCP); understanding is this bill makes no change to the ORCP, and therefore did not think it was important to put it in the bill.
075	Rep. VanLeeuwen	Comments she believes the bill is not ready to be moved.
076	Chair Strobeck	Agrees, closes the work session on HB 2322, and opens the work session on HB 2909.
<u>HB 2909 - WORK SESSION</u>		
089	Jeri Chenelle	Administrator, reviews the HB 2909-1 amendments (SEE EXHIBIT G OF COMMITTEE MINUTES DATED APRIL 30, 1997) and the HB 2909-2 amendments (SEE EXHIBIT H OF COMMITTEE MINUTES DATED APRIL 30, 1997).
096	Dan Jarman	Associated General Contractors (AGC), testifies that AGC has offered the -1 and -2 amendments, introduces David Douthwaite, AGC, and Terry Meehan, Oregon Department of Justice (DOJ), and comments there are other questions and concerns raised by DOJ and believes there is agreement to continue dialogue as the bill moves through the process.
113	Rep. Schrader	Comments he believes that the way the -2 amendments are worded if the public agency commits fraud, the contractor does not get his/her money.

117	Rep. Hill	Agrees and comments that the contractor should not be held liable, but if the agency and the contractor act in good faith, the contractor should get his/her money, but if both of them act irresponsibly in collusion, they should not get their money.
124	Rep. Schrader	Adds that the third scenario is that if the agency is at fault and has done something bad in letting a contract, the third party could appeal and therefore the contractor would not get the money even though he/she operated in good faith.
131	Douthwaite	Responds he believes it is covered in the original bill.
	Terry Meehan	Oregon Department of Justice (DOJ), comments he believes they should have dialogue with AGC to resolve the issue of authority. Adds that when a contract is voided, warranties tend to disappear and wants to make sure if the state is going to pay for services, the warranties follow.
148	Chair Strobeck	Asks if it would be possible in awarding of a contract to specify who is authorized to make changes.
150	Meehan	Replies that is his concern--even if the government were to specify who has authority, another officer of the government who doesn't have the authority may sign a contract and the government would still pay.
	Rep. Hill	Comments he would hope that local governments will have their contracts reviewed by legal counsel.
160	Meehan	Comments his concern is that if legal counsel did not have an opportunity to review, perhaps this bill would override the other bill.
173	Rep. Hill	MOTION: Moves to ADOPT HB 2909-1 amendments dated 04/21/97 and the HB 2909-2 amendments dated 04/30/97.
175		VOTE: 6-0 EXCUSED: 1 - Rep. Montgomery
	Chair	Hearing no objection, declares the motion CARRIED.
178	Rep. Hill	MOTION: Moves HB 2909 to the floor with a DO PASS AS AMENDED recommendation.
181		VOTE: 5-1 AYE: 5 - Gardner, Hill, Schrader, Whelan, Strobeck NAY: 1 - VanLeeuwen EXCUSED: 1 - Montgomery
	Chair Strobeck	The motion CARRIES. REP. GARDNER will lead discussion on the floor.
188	Chair Strobeck	Closes the work session on HB 2909 and opens the work session on HB 2910.
<u>HB 2910 - WORK</u>		

SESSION		
194	Jeri Chenelle	Administrator, review provisions of HB 2910 and advises the committee has the HB 2910-5 amendments (EXHIBIT K), which change the -3 amendments from "negotiated" to "renegotiated."
204	Chair Strobeck	Notes that the HB 2910-4 amendments (EXHIBIT L) adds in Higher Education.
203	Dan Jarman	Associated General Contractors (AGC), comments that all of AGC's corrections appear in the -5 amendments.
228	Rep. VanLeeuwen	Asks how this relates to SB 356 and where it is in the process.
229	Jarman	Responds that SB 356 is in the -5 amendments.
236	Rep. Hill	MOTION: Moves to ADOPT HB 2910-5 amendments dated 05/07/97.
238	Rep. VanLeeuwen	Asks if everyone is in agreement with the bill.
	Jarman	Explains who the participants have been in negotiations, the Senate history of SB 356, and that he knows of no opposition, but that Mr. Kalinoski wishes to add another issue to HB 2910.
270		Discussion is held on why the Department of Higher Education is not included in this bill.
282		VOTE: 6-0 EXCUSED: 1 - Rep. Montgomery
	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
287	Jack Kalinoski	Responsible Public Contracting Coalition, testifies that Rep. Oakley has asked the committee to include in the requirements before public works contracts can be negotiated, language that would say the State Board of Higher Education has to comply with the same rules and procedures as all other public agencies (EXHIBIT L).
297		Explains there are hundreds of public agencies which have the ability to contract, and if language requested by Rep. Oakley is not included, all but one agency will have to hold a public hearing before they can negotiate a public works contract, not have to make a quantifiable determination that negotiating the contract is in the public interest as opposed to competitive bidding, and not be required, when the contract is completed, to go back and see if the results matched the findings to begin with.
303	Rep. Hill	Comments he does not object looking at the issue, but suggests the committee might use a Senate bill.
327	Rep. Hill	MOTION: Moves HB 2910 to the floor with a DO PASS AS AMENDED recommendation.
330	Rep. Schrader	Asks if HB 2910, as amended, applies to local school districts.

333	Chair Strobeck	Noting affirmative nods in the audience, states it does apply to local school districts.
347		VOTE: 4-1 AYE: 4 - Gardner, Hill, Whelan, Strobeck NAY: 1 - Schrader EXCUSED: 2 - Montgomery, VanLeeuwen
	Chair Strobeck	The motion CARRIES. REP. STROBECK will lead discussion on the floor.
353	Chair Strobeck	Closes the work session on HB 2910 and adjourns the meeting at 3:25 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jeri Chenelle,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3275, HB 3275-3 amendments, Rep. L. Beyer, 4 pp

B - HB 3275, HB 3275-4 amendments, Rep. L. Beyer, 4 pp

C - HB 2443, HB 2443-2 amendments, Rep. Dennis Luke, 2 pp

D - HB 2321, HB 2321-3 amendments, Terry Meehan, 2 pp

E - HB 2104, HB 2104-7 amendments, Rep. Gardner, 1 p

F - HB 3416, HB 3416-2 amendments, Rep. Strobeck, 1 p

G - HB 2280, eligibility chart, Ken Beyerly, 2 pp

H - HB 3638, HB 3638-6 amendments, Rep. Strobeck, 26 pp

I - HB 2322, proposed amendments, Bill Cloran, 6 pp

J - HB 2322, hand-engrossed with proposed amendments, staff, 8 pp

K - HB 2910, HB 2910-5 amendments, Dan Jarman, 7 pp

L - HB 2910, HB 2910-4 amendments, Jack Kalinoski, 7 pp