

HOUSE COMMITTEE ON  
GENERAL GOVERNMENT AND REGULATORY REFORM  
SUBCOMMITTEE ON REGULATORY REFORM

February 13, 1995                      Hearing Room 357  
1:30 P.M.                      Tapes 4 - 5

MEMBERS PRESENT:

Rep. Ken Strobeck, Chair  
Rep. Bryan Johnston  
Rep. Charles Starr

MEMBER EXCUSED:

Rep. Sharon Wylie, Vice-Chair  
Rep. Jerry Grisham

STAFF PRESENT:

Greg Moore, Committee Counsel  
Kay C. Shaw, Committee Assistant

MEASURES HEARD:

HB 2444 Public Hearing and Possible Work Session  
SB 34                      Public Hearing and Possible Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 4, A

006            CHAIR STROBECK: Calls meeting to order at 1:30 p.m. REPS. GRISHAM AND WYLIE ARE ABSENT AND EXCUSED. Introductory comments and announces change in the order of the first two agenda items (i.e., SB 34 to be heard first).

019            CHAIR STROBECK: Opens public hearing on SB 34.

SB 34 - PUBLIC HEARING

Witnesses:                                      Peggy A. Collins, Building Codes Division

GREG MOORE, Committee Counsel: Reviews Preliminary Measure Summary and states the bill has passed the Senate. Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT A).

Prepared testimony dated January 20, 1995, and previously submitted by Peggy A. Collins, Code Development & Compliance Manager, Building Codes Division, is hereby made a part of these Minutes (EXHIBIT B).

034            MS. PEGGY A. COLLINS, Building Codes Division, Department of Consumer &

Business Services: Testifies in support of SB 34 and submits (EXHIBIT C).

Presents from prepared testimony. Explains this is an housekeeping item to equalize civil penalties across the board and allow the Building Codes Division to equalize penalties in the Structural, Mechanical and One and Two-family Dwelling Codes. Explains the impact/reasons for seeking this level of penalty is to raise the penalty so there would be more incentive to get permits, inspections and ensure safety.

062 REP. JOHNSTON: Cites that portion of Exhibit C that states the Department uses alternative dispute resolution and considers mitigating circumstances. Inquires about the proposed authorization to impose an \$1,000 fine in the context of the Building Codes Division exercising its discretionary power of imposing a lesser fine if it is deemed appropriate.

MS. COLLINS: Yes, that is correct. Building Codes Division does use alternative dispute resolution to perhaps reduce the penalty or waive the penalty entirely. Explains the progress toward developing a penalty matrix.

CHAIR STROBECK: What was the original rationale to go from the \$100 to \$1,000 level?

077 MS. COLLINS: Explains the two reasons are to make the penalties consistent across the various program areas and to raise the penalties in the mechanical area as they are very low and some individuals avoid getting a permit.

CHAIR STROBECK: Refers to Exhibit B and the comment of no apparent opposition to this bill. Asks whether any opposition to the bill has surfaced since passage by the Senate?

MS. COLLINS: No.

093 CHAIR STROBECK: Closes the public hearing on SB 34 and opens the work session on SB 34.

MOTION: REP. JOHNSTON moves that SB 34 be sent to the Full Committee with DO PASS recommendation.

AND VOTE: In a roll call vote, all members present vote AYE. REPS. GRISHAM AND WILEY ARE EXCUSED.

105 CHAIR STROBECK: Declares the motion PASSED. REP. JOHNSTON will lead discussion to the Full Committee at the next available meeting time.

CHAIR STROBECK: Opens the public hearing on HB 2444.

HB 2444 - PUBLIC HEARING

Witnesses: Rep. Liz VanLeeuwen  
Peggy A. Collins

GREG MOORE, Committee Counsel: Reviews Preliminary Measure Summary. Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT D).

128 REP. LIZ VANLEEUVEN (R - District 37): Testifies in support of HB 2444.

Explains the intent of the bill is when conditions are relatively safe, even though the bill may have been written more strictly than intended, that "people can live in the house that they are building or remodeling before everything is finished without being under threat." Clarifies that over the last few years the publishing of legal notices in the newspapers sometimes seems to trigger materials disappearing from the building site as

well as people experience undue financial difficulties as a result of not being located on the grounds where the house is being built or remodeled. Explains that with more time, this bill would probably have been returned to Legislative Counsel for more work. Emphasizes the intent is to allow people to be involved, to be on site and to have more affordable housing during the process.

160 CHAIR STROBECK: Should the bill also include some minimum amount of required construction (i.e., framed, finished walls/roofs, etc.)? In other words should there be some standard threshold of completion v. someone attempting to live under a "few pieces of plywood"?

REP. VANLEEUWEN: Intent is that people be able to live on the property at least when water, potable water and some disposal system are available even if it is in a mobile vehicle. Explains that vandalism necessitates such a need.

CHAIR STROBECK: You are not necessarily talking about occupying the house that is under construction, but maybe living in a mobile home next to the house construction being done (i.e., at the site)?

REP. VANLEEUWEN: Yes, the capability of living at the site. Illustrates an example involving a change of use of the property and the resultant complications that developed.

REP. STARR: Comments about a personal situation in which someone had substantial completion of a house, ran out of funds and, because the person was able to move into the house and save the cost of renting other property, payment could be made on a regular basis in order to complete the house. Considers it a good bill, but may need some work.

211 REP. VANLEEUWEN: Illustrates personal experience while building her house in compliance with county law or regulation. What do you advise me to do?

CHAIR STROBECK: Explains the Committee will listen to a witness from the Building Codes Division and then recontact her to work on amendments to the bill that tightens definitions.

REP. VANLEEUWEN: Inquires when she should testify about HB 2457.

CHAIR STROBECK: Since witnesses present to give testimony about HB 2457 agree it is not an inconvenience to return to testify at another time, HB 2457 is set over until next week so the full committee membership are present for discussion.

MS. PEGGY A. COLLINS, Building Codes Division, Department of Consumer & Business Services: Testifies about HB 2444 and submits (EXHIBIT E). Presents from prepared testimony. Introductory comments about the way the

bill is written, particularly that the bill does not accomplish the proponent's desire (i.e., a planning/local zoning issue).

256 MS. COLLINS: Continues testifying about HB 2444. Explains the impact of this bill on the Building Codes Division and local jurisdictions is that, because the State Building Code is enforced primarily by local jurisdictions and not the Building Codes Division, the bill would take away

the authority of the local building official to make the decision about when a person could move into the home. Cites ORS 455.020. Explains that some jurisdictions have adopted local ordinances or policies that withhold final approval or inspection of a dwelling that allows occupancy of a dwelling until specific work has been completed. Says such situations are not part of the State Building Code and would not be covered by this bill as written. Suggests possible alternative (page 1).

CHAIR STROBECK: Do you have a serious problem with the bill from the standpoint of the Building Codes areas?

MS. COLLINS: Responds that it could be done; however, the bill needs to address local zoning requirements. Suggests possible amendment to ORS 455.020 related to administrative procedures. Discusses the negative impact and difficulty of gaining compliance and completion of a building if allowed use of the property.

311 MS. COLLINS: Continues testifying. Explains that banking institutions do require a Certificate of Occupancy or a final inspection before loans are closed, property is transferred from a contractor to a homeowner, etc.

REP. JOHNSTON: Do we need to be concerned about continuing progress after people are allowed to establish residence in partially completed homes?

320 MS. COLLINS: Says that can be a problem. Suggests that by rule some timeline guidelines could be set about corrections.

334 CHAIR STROBECK: Cites Rep. Starr's example. Do you understand there to be any conflict with existing regulations and someone moving in? Is there already something under the State Code that allows occupancy of a substantially-completed home?

MS. COLLINS: Yes. Explains that under specific circumstances some jurisdictions do allow people to move in before the home is completed (i.e., unfinished finishing work); however, other jurisdictions do require completion of everything due to local ordinances relating to zoning requirements. Comments that from a safety standpoint, "substantial completion" generally means that those things covered by building code are completed.

360 CHAIR STROBECK: What we have heard from the testimony basically suggests a "common sense application" of these regulations. Requests that,

with the Committee's approval, Committee Counsel return to the Legislative Counsel to develop amendments regarding the intent to "allow someone to be able to afford to complete their home . . . allowing them to live in a mobile home or a second home that may be on the property within the allowable restrictions of local zoning ordinances . . . redefine . . . what

is meant by a 'family dwelling during construction' and insert 'and/or remodeling' or some sort of minimum." Once amendments are drawn up, the

committee will meet to reconsider the bill.

CHAIR STROBECK: Closes the public hearing on HB 2444.

406 CHAIR STROBECK: Asks if witnesses Jim Craven and Mike McCullough, advocates for the arts, prefer to testify today on HB 2457 or return when the full committee is present?

TAPE 5, A

001 MR. JIM CRAVEN: Announces that Mike McCullough, a Portland Architect, was to join them; however, he has not yet arrived due to the inclement weather. Acknowledges they can return later.

CHAIR STROBECK: Suggests this bill be heard when more people interested in testifying are in attendance as well as all members of the committee are present.

CHAIR STROBECK: Due to the substantial nature of the 9-1-1 and the arts issues, next week's meeting will be at 1:15 pm. Declares the meeting adjourned at 2:00 pm.

Submitted by, Reviewed by,

Kay C. Shaw      Greg Moore  
Committee Assistant      Committee Counsel

EXHIBIT SUMMARY:

- A - SB 34, Preliminary Staff Measure Summary -- staff -- 3 pages
- B - SB 34, Prepared Testimony dated January 20, 1995 --Peggy A. Collins -- 2 pages
- C - SB 34, Prepared Testimony -- Peggy A. Collins -- 2 pages
- D - HB 2444, Preliminary Staff Measure Summary -- staff -- 1 page
- E - HB 2444, Prepared Testimony --Peggy A. Collins -- 2 pages