

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM
SUBCOMMITTEE ON TRANSPORTATION

Hearing Room
Tapes - 10

MEMBERS PRESENT:

Rep. Cedric Hayden, Chair
Rep. Lonnie Roberts, Vice-Chair
Rep. Jerry Grisham
Rep. Mike Lehman
Rep. Bill Markham (Arrives at 3:15 pm)
Rep. Ken Strobeck

STAFF PRESENT:

Anne Tweedt, Committee Counsel
Kay C. Shaw, Committee Assistant

MEASURES HEARD:

HB 2105 Public Hearing
HB 2104 Public Hearing & Work Session
HB 2790 Public Hearing & Work Session
HB 3010 Public Hearing & 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 , A

THIS MEETING IS CONVENED IMMEDIATELY FOLLOWING THE JOINT MEETING OF THIS SUBCOMMITTEE AND THE SENATE COMMITTEE ON TRANSPORTATION

006 CHAIR HAYDEN: Calls the meeting to order at 3:00 pm. REP. MARKHAM IS EXCUSED.

CHAIR HAYDEN: Opens public hearing on HB 2105.

HB 2105 - PUBLIC HEARING

Witnesses: Greg Malkasian, Public Utility Commission
Mike Eyer, Public Utility Commission
Everett Cutter, Oregon Railroad Association
Mike Meredith, Oregon Trucking Association
Jim Whitty, Associated Oregon Industries

008 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT A).

019 GREG MALKASIAN, Administrator, Transportation Safety Division, Public Utility Commission: Testifies from prepared testimony in support of HB 2105. Submits (Exhibit B).

051 MR. MALKASIAN: Continues testifying in support of HB 2105. Announces that Mike Eyer to assist in addressing questions.

052 REP. ROBERTS: Will this bill give PUC more authority to expand on regulations?

MR. MALKASIAN: No. Explains that the hazardous materials regulations are Federal regulations that preempt State regulations -- there would not be any expansion of those regulations.

REP. ROBERTS: Is it true about hazardous materials that PUC can go above Federal regulations basically, but cannot go below them?

063 MICHAEL EYER, Hazardous Materials Specialist, Public Utility Commission:

In the case of transporting hazardous materials, the Federal Government's hazardous materials regulations cannot be exceeded -- state and localities are specifically preempted from going beyond those regulations.

069 REP. ROBERTS: Opines that shippers should accept a larger share of the responsibility of packaging and preparing for shipment. Is this what PUC is seeking?

MR. MALKASIAN: Exactly. It is a shared responsibility with meeting regulatory requirements. The shipper must tender a shipment that is consistent with the regulations and the motor carrier must only accept that shipment if it meets those requirements.

095 CHAIR HAYDEN: How does PUC do the inspection?

MR. EYER: There is very limited inspection by Federal authorities. Explains that materials are usually found in review of shipping papers and the external identification on vehicles.

CHAIR HAYDEN: Will PUC need more FTE to accomplish this?

MR. MALKASIAN: No. Describes another example of finding problems is when a "leaking container or package" is identified. PUC has two hazardous materials specialists and other general safety specialists are also trained in the regulations. Opines that PUC can sufficiently enforce these regulations with the current staff.

120 CHAIR HAYDEN: Who calls the problem to the attention of PUC?

MR. MALKASIAN: During the conduct of a review at a facility. Explains that errors are found in the identification of the material based on the documentation for the loads that were transported and during the course of a vehicle inspection based on a review of compliance requirements.

140 CHAIR HAYDEN: Would the five Oregon locations be ports of entry, way stations, roadside stops, etc.?

MR. EYER: Explains the five sites were all port of entry locations.

158 REP. STROBECK: Is it correct that Federal regulations already exist for shipping?

MR. MALKASIAN: That is correct.

REP. STROBECK: Refers to Section 5 of the proposed bill. Will the PUC rules be "carbon copies of the Federal rules"?

MR. MALKASIAN: Yes. PUC adopts the Federal regulations; however, there isn't statutory authority over shippers so the regulations only apply to motor carriers now.

REP. STROBECK: Will the proposed rules be different from the Federal rules?

MR. MALKASIAN: No.

172 MR. EYER: Explains that both the Departments of Defense/Energy are exempt from the regulations. It depends upon whether or not national security is involved. Loads of high-level explosives and radioactive materials are almost always exempt.

REP. ROBERTS: Is it correct that if the government is going to move hazardous materials through a city or town, they have to notify the state and the people of the city/county?

MR. EYER: No. There are no notification requirements other than for very specific shipments. Mentions that the Federal Government has issued national routing guidelines, that are effective January 1, 1995, and allows states and local municipalities to regulate hazardous materials. No specific requirements are in place currently.

199 EVERETT CUTTER, Manager, Oregon Railroad Association: Testifies in support of HB 2105. Explains that HB 2105 would relieve carriers of a degree of responsibility and liability for infractions of standards over which they have no control. Notes there are objections to compliance costs; however, the cost of noncompliance with these regulations can be greater than the effort to comply.

REP. MARKHAM: Arrives at 3:15 pm.

228 MIKE MEREDITH, Oregon Trucking Association: Testifies in support of HB 2105. Explains that when a shipper is seeking a carrier to haul a particular load and a carrier refuses to ship the load, because it is improperly labeled or marked, that the shipper merely finds a carrier who will haul it. Opines that protection/enforcement are needed.

REP. ROBERTS: Opines that it is going to be up to OTA to continue to support such a position until shippers realize they can't get away with it.

MR. MEREDITH: Says only a minority of shippers would be affected.

240 JIM WHITTY, Legislative Counsel, Associated Oregon Industries: Testifies in opposition to HB 2105. Expresses concern about adding another level of government regulation that isn't needed for the majority. The bill shifts the burden from the transporter to the shipper. Notes that it is now a contract between shipper and transporter. Says the language of the bill would allow Oregon regulation beyond the Federal standards.

284 MR. WHITTY: Continues testifying in opposition to HB 2105. Questions whether the Federal program is appropriate for Oregon.

REP. ROBERTS: It doesn't matter whether Federal regulations are right for Oregon or not, Oregon is preempted. Explains that the bill requires everyone involved in a shipment to accept responsibility. Expresses support for the bill.

312 CHAIR HAYDEN: Suggests that individuals in the private sector who are interested in the bill come up with some compromise bill if, in fact, the bill can be compromised.

REP. MARKHAM: What was the demonstrated risk (problem)?

325 MR. MALKASIAN: Explains the issue is very little oversight over shippers in Oregon, because the regulatory agency with oversight is the Federal Government (i.e., Federal Railroad Administration and the Office of Motor Carriers Federal Highway Administration).

352 MR. MALKASIAN: Continues to testify. States that the Federal regulations clearly assert responsibility upon the shipper and the motor carrier in meeting the requirements; however, PUC has regulatory jurisdiction over the motor carriers only. The bill will allow PUC to focus on those few shippers who continue to violate the Federal requirements and "shop" for a motor carrier who will take a shipment that does not meet Federal regulations.

375 REP. MARKHAM: Requests examples about the problem.

MR. EYER: Illustrates a situation of serious exposure risk involving a shipper sending out 75-125 shipments per day of corrosive materials and flammable liquids by UPS shipment.

REP. MARKHAM: What would PUC have done if PUC had the authority?

MR. EYER: PUC would have been able to take enforcement action against the shipper.

TAPE 10, A

005 MR. MALKASIAN: Continues testifying. The bill would expand and properly affix responsibility to the party that created the problem.

REP. MARKHAM: Why was this not submitted earlier?

MR. MALKASIAN: Explains the bill was a request to PUC four years ago by the Interagency Hazardous Communication Council and the bill was prepared for the last two sessions; however, this is the first hearing the bill has received.

REP. MARKHAM: Expresses concern about impediments to the free enterprise system. Has anyone been hurt by this?

MR. EYER: Nothing specifically in the last few years; however, there are many instances of people being evacuated and of environmental degradation.

036 MR. MALKASIAN: Agrees that PUC will be unable to eliminate every accident; however, what PUC hopes to achieve is the ability to interface with the appropriate participants (i.e., shipper and motor carrier) and avoid accidents in the future.

REP. ROBERTS: Disagrees with Rep. Markham. Opines the intent of the bill is to make people responsible for actions under the Federal Law.

CHAIR HAYDEN: Closes public hearing on HB 2105. Opens public hearing on HB 2104.

HB 2104 - PUBLIC HEARING

Witnesses: Bob Russell, Public Utility Commission
Ric Listella, Public Utility Commission
Mike Meredith, Oregon Trucking Association
Carolyn Barr, Consolidated Freightways, Inc.

093 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary. Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT C). Proposed HB 2104-1 Amendments are hereby made a part of these Minutes (EXHIBIT D).

108 BOB RUSSELL, Assistant Commissioner, Transportation Program, Public Utility Commission: FOR THE RECORD: A PUC requested bill. Introduces Ric Listella.

116 RIC LISTELLA, Salem Registration Manager, Motor Carrier Services, Public Utility Commission: Testifies from prepared testimony in support of HB 2104. Submits (EXHIBIT E).

133 RIC LISTELLA: Continues testimony in support of HB 2104. Explains fee assessment.

REP. ROBERTS: Why the reference to international if it is a national program?

MR. RUSSELL: Explains that a number of the Canadian provinces are members of the International Registration Plan.

REP. ROBERTS: Summarizes that it is called "international", because it is between the two countries and has nothing to do with Mexico or anywhere else.

MR. RUSSELL: Mexico is not participating; however, there are discussions as a result of NAFTA to determine how to register trucks crossing the border to Mexico and vice versa.

155 REP. MARKHAM: How does PUC collect this approximate \$12,000?

MR. RUSSELL: Explains that carriers submit applications to PUC to register vehicles under the International Registration Plan. PUC will attach an \$1 charge to each application.

CHAIR HAYDEN: What would be an average charge per year?

MR. RUSSELL: \$1 per transaction. Explains the fee matrix.

186 CHAIR HAYDEN: Does Oregon keep a proportionate amount of all the fees?

MR. RUSSELL: PUC keeps Oregon's portion of the registration fee. The balance of the money is sent to the appropriate states.

CHAIR HAYDEN: Does it need to be \$1?

MR. RUSSELL: No, but otherwise the money would come out of the Highway Fund.

REP. ROBERTS: Is there anyone opposing this bill?

MR. RUSSELL: Unaware of any opposition.

208 MIKE MEREDITH, Oregon Trucking Association: Testifies in support of HB 2104. Introduces Carolyn Barr, Director of Licensing, Consolidated Freightways, Inc. Explains that Consolidated Freightways, Inc. originally formed in the State of Oregon in 1929 and has 1,700 administrative employees in Portland exclusively.

219 CAROLYN BARR, Director of Licensing, Consolidated Freightways, Inc.: Testifies from prepared testimony in support of HB 2104. Submits (EXHIBIT F).

230 MS. BARR: Continues testifying in support of HB 2104. Supports an administrative fee of approximately \$1 per fleet for each application processed through the base state.

REP. MARKHAM: What would happen if the fee was \$2.

MR. MEREDITH: Explains that the fee is intended to recover the cost for incorporation; therefore, OTA discourages a fee that adds more cost than needed.

MS. BARR: The bill proposes to recover the costs associated with the billing from the IRP. The fee must be revenue neutral.

274 REP. ROBERTS: Nobody opposes the fee -- the fee is so minimal in comparison to the savings.

289 CHAIR HAYDEN: Closes the public hearing on HB 2104 and opens the work session on HB 2104.

HB 2104 - WORK SESSION

290 MOTION: REP. ROBERTS moves that HB 2104 be sent to Full Committee with
a DO PASS recommendation.

304 CHAIR HAYDEN: Seems like a good bill, good concept. Questions the
\$12,000.

REP. STROBECK: Feels it is reasonable when the trucking industry is
volunteering to pay for it and feels there will be a benefit.

REP. GRISHAM: What is the amendment?

308 CHAIR HAYDEN: Takes out the \$1 fee.

MOTION: REP. GRISHAM moves that HB 2104-1 Amendments be ADOPTED.

307 REP. ROBERTS: Withdraws motion.

328 CHAIR HAYDEN: Declares that Rep. Roberts has withdrawn the motion to
pass HB 2104 to the Full Committee and Rep. Grisham has moved to adopt the
HB 2104-1 Amendments.

334 REP. LEHMAN: That means that the \$12,000 comes out of the Highway
Fund?

CHAIR HAYDEN: It comes out of the money already being paid.

342 CHAIR HAYDEN: Calls for objections to the proposed amendment.

REP. ROBERTS: FOR THE RECORD: Will vote "No."

REP. STROBECK: FOR THE RECORD: Objects to the amendment.

351 REP. ROBERTS: Suggests introduction of the proposed amendment in Full
Committee.

REP. GRISHAM withdraws the motion on the amendment.

MOTION: REP. GRISHAM moves that HB 2104 as written be sent to the Full
Committee with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. HAYDEN, LEHMAN, ROBERTS, and STROBECK
vote AYE. REPS. GRISHAM and MARKHAM vote NAY.

CHAIR HAYDEN: Declares the motion PASSED. Carrier of the bill is REP.
ROBERTS.

388 CHAIR HAYDEN closes the work session on HB 2104 and opens the public
hearing on HB 2790.

HB 2790 - PUBLIC HEARING

Witnesses: Al Elkins, Oregon Tow Truck Association
Gary Coe, Speed's Towing
Steve Johnston, Oregon Department of Transportation (ODOT)

390 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure
Summary. Preliminary Staff Measure Summary is hereby made a part of these
Minutes (EXHIBIT G). Reviews the HB 2790-1 Amendments. HB 2790-1
Amendments are hereby made a part of these Minutes (EXHIBIT H).

AL ELKINS, Oregon Tow Truck Association: Introduces Gary Coe, owner of
Speeds Towing. Testifies from prepared testimony in support of HB 2790.
Submits (EXHIBIT I). Explains the situation with 11 transporters of
wrecked vehicles.

TAPE 9, B

001 MR. ELKINS: Continues testifying in support of HB 2790. Refers to

photo (page two) that illustrates the problem.

006 GARY COE, Speed's Towing (Portland based): Testifies in support of HB_2790. Refers to the truck in the photo. Says the truck is manufactured in Pennsylvania, approximate cost is \$72,000 each and his company owns 11. Provides history. Explains that in early 1994 a Umatilla

scale weighmaster measured the truck and, because the truck was over 40 feet, would not allow the truck to proceed. This resulted in modification of two trucks to bring them within the 40-foot length.

029 MR. COE: Continues testifying in support of HB 2790. Explains that with pickups and vans these trucks are the most practical vehicles for this application. The two proposed changes to ORS 818.100 would give automobile

transporters a total length of 45 feet, measured from the front winch to the end of the tow bar, (Section 17), and an exemption for the combination of the truck and towed vehicle for a maximum of 65 feet (Section 18). Comments about the Federal exemption for auto transporters; however, the exemption specifically identifies tractor-trailer units and also specifically identifies "driveable" vehicles. Those two clauses in the Federal length exemptions disqualify his trucks.

046 REP. MARKHAM: Quotes the proposed language of "75 feet" in Section 18 and questions the difference in the testimony of "65 feet."

MR. ELKINS: Refers to the HB 2790-1 Amendments (EXHIBIT I). Explains the change from 75 feet down to 65 feet.

REP. MARKHAM: Why do you want to reduce it?

MR. ELKINS: Cites negotiations with ODOT in which it was concluded that it might be better to say "65" as ODOT felt more comfortable with the "65" rather than "75". It was agreed that was acceptable.

REP. MARKHAM: Why is ODOT concerned about 10 feet in light of the "triples" on the road?

062 CHAIR HAYDEN: Requests an explanation of Group 1 and 2 highways.

062 STEVE JOHNSTON, Manager, Motor Carrier Service Group, Oregon Department of Transportation (ODOT): Explains that "triples" can be up to 105 feet long. There is a network of roads that encompasses approximately half of state highways. Group 1 and Group 2 highways make up 95-97% of all the state highways in the system and the system adapts to most of the needs for various size vehicles. Describes unsafe conditions should "many thousands of these vehicles" be out on any road. ODOT is comfortable with the proposed limited application.

CHAIR HAYDEN: What is a Group 1 highway?

MR. JOHNSTON: Group 1 highways include freeways, most primary roads, and many secondary roads.

CHAIR HAYDEN: What is a Group 2 highway?

084 MR. JOHNSTON: Group 2 highways are some of the secondary roads -- depends on how "twisting, curvy and the lane width."

REP. MARKHAM: Are truck and trailer units on the roads over 75 feet?

MR. JOHNSTON: Yes, but the vehicles over 75 feet can only be on the "National Network" (less than 4,000 miles of the total 7,600 miles of the highway network) and some "reasonable access roads" (required by Federal regulation). Explains the Surface Transportation Assistance Act of 1982.

114 REP. ROBERTS: Are the HB 2790-1 amendments ODOT's?

MR. JOHNSTON: Yes. Explains a conceptual amendment. Automobile Transport Association requests changes on Page 2, Line 37 and Line 40 to delete "automobile transporter" and insert "a motor vehicle transporter."

CHAIR HAYDEN: Will some other statute be affected by such a change?

128 MR. JOHNSTON: No. There is no definition of "automobile transporter" in current statute, only in Federal regulations.

134 CHAIR HAYDEN: Closes public hearing on HB 2790 and opens work session on HB _2790.

HB 2790 - WORK SESSION

143 MOTION: REP. MARKHAM moves that HB 2790-1 Amendments be ADOPTED.

VOTE: CHAIR HAYDEN calls for objections and hearing no objections from ALL MEMBERS PRESENT declares the motion ADOPTED.

145 MOTION: REP. MARKHAM moves that HB 2790-1 Amendments be amended.

VOTE: CHAIR HAYDEN calls for objections and hearing no objections from ALL MEMBERS PRESENT declares the motion ADOPTED.

155 MOTION: REP. MARKHAM moves that HB 2790-1 Amendments as amended be sent to the Full Committee with a DO PASS recommendation.

VOTE: In a roll call vote REPS. GRISHAM, HAYDEN, LEHMAN, MARKHAM, ROBERTS, and STROBECK vote AYE.

163 CHAIR HAYDEN: Declares the motion PASSED. Carrier of the bill is REP. HAYDEN.

177 CHAIR HAYDEN: Closes work session on HB 2790 and opens public hearing on HB 3010.

HB 3010 - PUBLIC HEARING

Witnesses: Mike Meredith, Oregon Trucking Association
Debra Downey, AAA Oregon
Steve Johnston, Oregon Department of Transportation (ODOT)

ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT J).

184 MIKE MEREDITH, Oregon Trucking Association: Testifies in support of HB _3010. Submits (EXHIBIT K).

210 MR. MEREDITH: Continues testifying in support of HB _3010. Explains delays in getting a permit from ODOT and that the intent of the bill is to allow a road authority (e.g., ODOT) to subcontract the "authority of issuing routine permits to a private contractor." Cites the State of Washington as an example. Comments that ODOT and the Oregon League of Counties do not object to the bill.

238 MR. MEREDITH: Requests an addition to Page 2, Line 1, after "exceed" to insert "\$20".

CHAIR HAYDEN: The fee for a permit is \$8 if issued by a private contractor. Is the contractor's fee in addition to the \$8?

MR. MEREDITH: That's correct. Explains that in the State of Washington that it is an additional \$3.50.

CHAIR HAYDEN: Why should it be \$8 instead of \$20?

MR. MEREDITH: The carrier has the option (i.e., \$8 through ODOT or \$12 through a private contractor).

CHAIR HAYDEN: Comments that if ODOT charges only \$8 then private carrier should charge \$6.40.

254 MR. MEREDITH: State requires \$8 regardless of who issues the permit.

261 DEBRA DOWNEY, Public Affairs Officer, AAA Oregon. FOR THE RECORD: No objection to HB 3010. Requests clarifying language that states "the private contractor, authorized under Section 1(1), shall not issue a variance permit to any applicant in which the contractor has a financial interest other than the additional fee." Says the purpose of the provision

is to eliminate the potential for a conflict of interest of the issuing parties.

272 REP. ROBERTS: Refers to testimony about "financial interest." How is that described?

MS. DOWNEY: No objection to OTA issuing permits. Concern about a private company issuing variance permits for loads.

283 STEVE JOHNSTON, Manager, Motor Carrier Services Group, Oregon Department of Transportation (ODOT): Testifies that ODOT would need to issue an Administrative Rule in order to implement the conditions. Explains the administrative rulemaking process. Expresses concern about a specific trucking company issuing its own permit. Comments about permit services.

302 CHAIR HAYDEN: How would you feel about Dell Isham AAA Services issuing permits to their members? Isn't that the same as OTA issuing permits?

MR. JOHNSTON: No problem with issuing to members.

CHAIR HAYDEN: Is it ODOT's opinion that qualifying language about who can/can't issue permits can be handled administratively? Can ODOT identify the private contractors?

MR. JOHNSTON: Implementing this type of legislation would necessitate ODOT undertaking a rulemaking process to make sure people are financially sound and consider whether a bond is required/qualifications for contractors.

328 CHAIR HAYDEN: Discusses legislative review of administrative rules.

340 MR. JOHNSTON: This is not an ODOT bill and ODOT has not yet given in depth thought to the bill. Doubts that an administrative rule would be more than a one- or two-page rule; however, it is important there are requirements.

360 CHAIR HAYDEN: Closes public hearing on HB 3010 and opens work session on HB _3010.

HB 3010 - WORK SESSION

REP. STROBECK: What about the fee?

CHAIR HAYDEN: Opines the \$20 fee is too much. Discusses the fee.

REP. LEHMAN: Questions setting a fee that is so excessive.

403 REP. STROBECK: Discusses handling fees.

REP. GRISHAM: Suggests privatizing the entire process.

TAPE 10, B

003 REP. STROBECK: Expresses concern that setting up a group as a permit issuing authority might put ODOT "out of business" in that area.

CHAIR HAYDEN: Suggests splitting the fee (i.e., \$4 to ODOT and \$4 to carrier).

REP. LEHMAN: Suggests adopting the idea.

CHAIR HAYDEN: Comments about governmental inefficiency and willingness of private industry to pay a premium for better efficiency.

024 REP. STROBECK: A defacto admission that the government agency is unable to maintain the workload; therefore, the private sector offers to do

it better and are willing to pay more for better service.

MOTION: REP. LEHMAN moves that HB 3010 be sent to Full Committee with a DO PASS recommendation.

CHAIR HAYDEN: Suggests discussing the fee.

REP. LEHMAN: Withdraws motion. Is the proposed \$20 fee in addition to the \$8 fee or including the \$8 fee?

037 MR. MEREDITH: The fee would be in addition to the \$8. Explains that was a "cap" -- let the marketplace determine the surcharge fee.

CHAIR HAYDEN: Would \$11.50 be appropriate -- \$8 plus \$3.50 - similar to the precedent set in Washington State?

MR. MEREDITH: That's fine.

REP. STROBECK: Refers to language that states "the contractor may charge an additional fee" [emphasis added]. The issue is the handling fee amount.

CHAIR HAYDEN: The surcharge amount would be \$3.50.

049 REP. LEHMAN: Suggests \$5.

MR. MEREDITH: Agrees so that it can be charged against costs.

REP. STROBECK: What do you plan to charge if this become effective?

MR. MEREDITH: Anticipates starting at \$3.50; however, the labor costs haven't been calculated yet.

065 MOTION: REP. LEHMAN moves to amend HB 3010 at Page 2, Line_1, after "exceed" to insert "\$5" and that the bill be sent to Full Committee with a DO PASS recommendation.

CHAIR HAYDEN: Asks for discussion.

DELL ISHAM, AAA: Refers to earlier testimony. Testifies that the intent of the amendment was to ensure that every county and city could also issue these permits under the bill, but not allow someone to issue a permit to themselves. Requests a delay of the work session until the amendment proposed by Debra Downing can be submitted in writing.

CHAIR HAYDEN: Summarizes the understanding about earlier testimony and the concern as about people who had a potential economic conflict of interest issuing these permits.

MR. ISHAM: Refers to Page 1, Line 5, and the language that extends "road authority" to "a private contractor." Says a road authority is far beyond the Department of Transportation.

092 CHAIR HAYDEN: Cities and counties can start issuing variances?

MR. ISHAM: Yes, and possible Road Districts.

CHAIR HAYDEN: What would the amendment do?

MR. ISHAM: Explains that the proposed amendment would say that someone could not issue a permit in which they had a financial interest.

CHAIR HAYDEN: Does that mean cities and counties?

096 MR. ISHAM: No. It means that cities and counties could not provide for a private contractor that could in effect issue permits to themselves.

CHAIR HAYDEN: ODOT couldn't control that with a State Administrative Rule and bind cities and counties -- would need a State preemption.

MR. ISHAM: Suggests limiting the authority to the State.

CHAIR HAYDEN: Does he have a valid point?

REP. LEHMAN: Certainly puts it in a different light.

REP. STROBECK: Gives impression that the issue, originally presented, was one center and one location, not dozens of them throughout the State.

CHAIR HAYDEN: Could be multiple contractors doing this.

114 REP. STROBECK: Agrees to multiple contractors and more centralized, not statewide.

CHAIR HAYDEN: Suggests having the amendments drafted and then reconsider.

119 REP. LEHMAN: Withdraws Motion.

MR. ISHAM: Reads the proposed amendment into the record. On Page 1, after Line 28, insert "(6) The private contractor authorized under subsection (1) of this section shall not issue a variance permit to any applicant in which the contractor has a financial interest other than the additional fee in Section 2 of this Act."

135 CHAIR HAYDEN: How does that deal with cities and counties?

MR. ISHAM: The term "road authority" includes the State, cities and counties. The other suggestion may require a re-write of the entire chapter of the law.

CHAIR HAYDEN: What financial interest does a city or county have in a trucking company?

MR. ISHAM: The city or county wouldn't have the financial interest. It is the authorized private contractor who may have a financial interest.

REP. STROBECK: Speculates the issue is the language of the bill that "empowers road authorities" to then go out and contract. Wants to ensure there is a provision that a city or county wouldn't let a contract to somebody that had a conflict of interest.

MR. ISHAM: Agrees.

CHAIR HAYDEN: Would a conflict of interest be someone paying dues to AAA?

MR. ISHAM: The intent is not to consider membership organizations as having a financial conflict of interest.

CHAIR HAYDEN: Suggests saying a "substantial economic interest."

MR. ISHAM: Proposes submitting the proposed amendment in writing for consideration by Legislative Counsel.

CHAIR HAYDEN: Agrees. Asks if there are any objections.

163 MR. MEREDITH: Why would a county issue authority to a contractor when there is a conflict of interest?

CHAIR HAYDEN: Is this a real potential problem?

MR. ISHAM: Doubts a city or county would do that knowingly.

MR. MEREDITH: What is the conflict situation?

MR. ISHAM: Responds that these permits are issued when a truck is either too wide or height/length exceeds the maximum -- not all theses permits are automatic (i.e., ensure safety to the motoring public).

CHAIR HAYDEN: Suggests moving the process and that the amendment be submitted to the Full Committee.

201 MOTION: REP. LEHMAN moves to amend HB 3010 at Page 2, Line_1, after "exceed" to insert "\$5" and that the bill be sent to Full Committee with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, HAYDEN, LEHMAN, and STROBECK vote AYE. REPS. MARKHAM and ROBERTS are EXCUSED.

CHAIR HAYDEN: Declares the motion PASSED. REP. STROBECK will carry the bill.

CHAIR HAYDEN: Adjourns the meeting at 4:40 pm.

Submitted by, Reviewed by,

Kay C. Shaw Anne Tweedt
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Preliminary Staff Measure Summary on HB 2105 -- staff -- 1 page
- B - Prepared Testimony on HB 2105 -- Greg Malkasian -- 2 pages
- C - Preliminary Staff Measure Summary on HB 2104 -- staff -- 2 pages
- D - Proposed HB 2104-1 Amendments -- staff -- 1 page
- E - Prepared Testimony on HB 2104 -- Ric Listella -- 2 pages
- F - Prepared Testimony on HB 2104 -- Carolyn Barr -- 2 pages
- G - Preliminary Staff Measure Summary on HB 2790 -- staff - 2 pages
- H - Proposed HB 2790-1 Amendments -- staff - 1 page
- I - Prepared Testimony on HB 2790 -- Al Elkins -- 2 pages
- J - Preliminary Staff Measure Summary on HB 3010 -- Staff - 2 pages
- K - Prepared Statement on HB 3010 -- Mike Meredith -- 1 page

