

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes , 99 & 100

MEMBERS PRESENT:

Sen. Bill Kennemer, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler
Sen. Joan Dukes
Sen. William McCoy

MEMBER EXCUSED:

STAFF PRESENT:

Darrell W. Fuller, Committee Administrator
Carol A. Smith, Committee Assistant

MEASURES HEARD:

HB 2238 Public Hearing and Work Session
HB 2345-A Public Hearing
HB 2659-A Public Hearing
HB 2846 Public Hearing
SB 439 Work Session
HB 2036 Work Session
HB 2845-A Public Hearing and Work Session
HB 2969 Public Hearing and Work Session
HB 2051 Public Hearing and Work Session
HB 2054 Public Hearing

HB 2055 Public Hearing

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

002 CHAIR: Calls the meeting to order at 3:15 p.m. as a subcommittee. States he does not anticipate action on SB 439.

CHAIR: Opens PUBLIC HEARING on HB 2238.

WITNESSES: Howard M. Fenerstein, Eagle Crest Resort
Stan F. Mayfield, Real Estate Agency
Rep. Dennis Luke, District 24

023 STAN MAYFIELD, Real Estate Agency: Explains the process of sales of time shares in resort developments. Refers to opinion by Attorney General that telemarketers are required to be a real estate licensee. The bill is a result of that. Explains the new entity; Real Estate Marketing Association. Refers to:

--licensing requirements;
--term of license;
--providing registered list of current employees;
--tracking individual.

060 SEN. DERFLER: Do they have a real estate license? Asks term of license, one or two years? No fee involved?

MAYFIELD: No fee, it will be designated by rule. Term of license proposed will be one year.

SEN. DERFLER: Sort of like telemarketing?

MAYFIELD: Yes. Actual selling will be done by a real-estate licensee at site.

081 MAYFIELD: Refers to bond, and the amount.

095 REP. DENNIS LUKE: Refers to problem of licensing within the telemarketing scope. Gives history of work group that came up with the bill with slight amendments. Requires: bond; license fee; refers to House history.

(3:23 p.m. SEN. DUKES joins the meeting.)

126 SEN. DERFLER: Had there been problems with this; were there complaints about the telemarketing process?

134 REP. LUKE: Yes; refers to Eagle Crest and troubles incurred with cold calling. The bill regulates out of state marketers who support this.

145 CHAIR: What is the fee for this?

MAYFIELD: Covers section regarding fees.

159 (CHAIR: We are in full committee.) Comments regarding amendments.

164 MAYFIELD: Refers to bond requirements. Emergency clause requested by industry because it wants to go back to work; they are shut down.

173 SEN. DERFLER: Why are you asking for such a large bond when there have been no problems?

(3:27 SEN. MCCOY joins the meeting.)

191 MAYFIELD: Discussion regarding the bonds.

200 SEN. DERFLER: Can you go after an out-of-state person and fine them?

MAYFIELD: Enforcing would be the problem. Refers to time-shares.

(3:30 SEN. LIM Joins the meeting.)

218 HOWARD M. FENERSTEIN, Eagle Crest Resort: Submits written testimony in support of the bill (EXHIBIT A). Explains what the telemarketer does in reference to visiting a site. This person reads from a script; does not take part in the actual sale. The offering of mini-vacations is necessary for leads. Gives numbers and statistics: contacts, visits, sales. Refers to:

- cost of training;
- examples of people who would take the training;
- only 30 percent pass;
- high turnover;
- effect on communities;
- lack of complaints;
- timeshare statutes;
- real estate workgroup;
- fly-by-night operators;
- emergency clause.

314 CHAIR: Was there opposition in the house?

318 CHAIR: Closes PUBLIC HEARING on HB 2238.
CHAIR: Opens WORK SESSION on HB 2238.

MOTION: SEN. DERFLER moves HB 2238 to the Floor with a DO PASS recommendation.

320 VOTE: MOTION PASSES.
AYES: DERFLER, MCCOY, LIM and KENNEMER
NAY: DUKES
CARRIER: KENNEMER

CHAIR: Closes the WORK SESSION on HB 2238.
CHAIR: Opens PUBLIC HEARING on HB 2345-A.

330 WITNESSES: Jim Carlson, Oregon Health Care Association
Margaret Carley, Oregon Health Care Association
Meredith Cote, Long Term Care Ombudsman

344 JIM CARLSON, Oregon Health Care Association: Submits written testimony in support of the bill (EXHIBIT B). Explains the bill creates a lien right for long-term health care facilities. States he has sent the page to make copies of his amendments for the committee. Refers to:

- consumer protections;
- real property of heirs;
- Medicare provisions;
- allowing providers to recover costs;
- one million in bad debt;
- statutes modeled after;
- state institutions;
- long-term care definitions;
- perfecting the lien;
- eligibility for Medicaid.

413 CHAIR: In seeing the amendments, they are extensive, will have to hear again on Thursday.

431 MARGARET CARLEY, Oregon Health Care Association: Testimony in support of the bill.

TAPE 99, SIDE A

009 CARLEY: Refers to:

- dispute resolution;
- 60-day filing;
- 100 days to file;
- Section Seven;
- Medicaid and other lien laws;
- discharge or release of the lien.

047 MEREDITH COTE, Long Term Care Ombudsmen: Testimony in opposition to the bill. States she is in agreement with Margaret Carley and explains.

058 SEN. DUKES: Have you withdrawn your concern regarding lien? Asks for clarification in regarding to liens against personal property.

083 COTE: Yes, perhaps they could be excluded. Gives suggestions.

090 CHAIR: If they were to pursue this too aggressively they would find it in the newspaper. You would see sentiment.

096 CARLSON: Refers to those with considerable assets. We do have a situation where these people misuse funds for care that was contracted in good faith.

109 SEN. DUKES: Addresses property tax deferral and inheriting property. Concern is that they may decide to try to stay home longer and do what they can instead of going to the care home.

134 CARLSON: Most people find themselves at the end of their lives and their is no coverage. Refers to their associations intent.

155 SEN. DUKES: Comments regarding postponement of seeking care.

163 CHAIR: Refers witness to Legislative Counsel.

166 DARRELL FULLER, Committee Administrator: Comments regarding testimony this morning in the House.

CHAIR: Closes PUBLIC HEARING on HB 2345 A.

172 CHAIR: Opens PUBLIC HEARING on 2659-A.

WITNESSES:

Heide Anderson, Architects Council of Oregon
John Baker, Architects Council of Oregon
Ray Boucher, Board of Architect Examiners

188 HEIDE ANDERSON, Architects Council of Oregon: Submits written testimony in support of the bill (EXHIBIT D). Explains the bill. Refers to:

- civil penalties;
- administrative rule language;
- rule promulgation;
- letter to Baker;
- Portland newsletter;
- letter to board;

--history on House side;
--constitutionality of current statute;
--previous Florida case ruling.

269 SEN. DUKES: You are not happy with the proposed new rule?

274 ANDERSON: That rule has not been promulgated. That agreement was last Spring.

290 JOHN BAKER, Architects Council of Oregon: Gives his qualifications and positions held. Active in areas surrounding architecture.

309 SEN. MCCOY: Why do you use that title?

BAKER: Explains at length, is proud to be a member of that organization even though he does not practice.

ANDERSON, same response. Can use, though not practice; not licensed. Detailed discussion follows.

350 BAKER: I registered in other jurisdictions, but do not practice in those. Addresses a violation of the title statutes of Oregon. Refers to:

--benefits of the organization;
--enforcement and constitutional rights;
--commercial speech

421 --regulation extent; harm; interest; general regulation.

TAPE 98 B

011 RAY BOUCHER, Oregon State Board of Architects: Submits written testimony

(EXHIBIT E) in opposition to the bill. Refers to:

--potential misrepresentation;
--statutes;
--survey done in United States;
--controls in a percentage of states;
--recent Board case;

--administrative rules they have been working on; extenuating circumstances in their office;

--electronic media in practice of architecture;
--history of legislation;

080 --inappropriate use of AIA documents;
--misuse of designation;
--example of action brought against an individual;
--reciprocal license issue;
--issue of misrepresentation to the public;
--misleading and potential misconception by the public;
--BAKER's intention;
--VCIP company's letter.

097 BOUCHER: The current legislation has served the state well over the years. Addresses enactment of the bill and direct conflict.

116 ANDERSON: Responds to SEN. DUKES question regarding comfort with promulgation of the rule.

130 SEN. DUKES: If I understand your bill correctly if the AID will take my membership dues I can become a member tomorrow and use that under your bill.

132 BAKER: Refers to broadness of bill compared to the rule; legislative intent; constitutionality; application; regulation limits; clarification for board and public; honorary AIA status.

173 SEN. DUKES: Is it possible to not be licensed anywhere and become a full-fledged member?

203 SEN. DUKES: Comments regarding perception of initials in regard to holding of a degree.

214 ANDERSON: Refers to board enforcement.

226 BOUCHER: Our concern is with the public; it is not an industry problem it is a public problem, one of health, safety and welfare. Explains the Board's rule making power. Gives stipulations and prohibitions. Refers to chronic misrepresentation; real harm done.

312 CHAIR: Comments regarding need for the bill and non-promulgation of the rule. We will reschedule for a possible work session on the bill.

316 CHAIR: Closes PUBLIC HEARING on HB 2659-A.

318 CHAIR: Opens PUBLIC HEARING on HB 2846-A.

DARRELL FULLER, Committee Administrator: Explains the bill and gives House history.

WITNESSES: Jim Anderson, Pacificorp
Bruce Hellebuyck, Pacificorp
Bill Warren, Public Utilities Commission

324 JIM ANDERSON, Pacificorp: Testimony in support of the bill. Introduces BRUCE HELLEBUYCK and BILL WARREN.

BRUCE HELLEBUYCK, Pacificorp: Submits written testimony in support of the bill (EXHIBIT F). Refers to alternate forms of regulation and:

--regulated versus unregulated which is determined by market;
--revenues as a function of price and ability to satisfy customers need from those;
--derivation of profits;
368 --link between prices and cost; no luxury for an unregulated company to ask for price increase;
--rate making process;
--clarification of commissions ability to do other than cost-basis rate making;
--implementation of a form of rate making where prices are not tied to cost.
--Regulation;
--rate proposal;
--competition.

374 SEN. MCCOY: Repeatedly in your remarks you talked about competition. What competition are you talking about?

375 HELLEBUYCK: Specifically we lost a forty megawatt customer who decided to essentially hire a third party to meet their generation needs. On the retail level that is an example of competition. On the wholesale level examples are margins on our wholesale sales being pushed down, in part, by the Energy Policy Act which was passed last year. Congress's intent was to increase the competitiveness in the wholesale market; to allow customers to get the best price.

TAPE 99, SIDE B

024 SEN. DUKES, refers to:
--competition and instances in the past;
--companies in her district;
--PUD's, PGE; Bonneville;
--task force;
--keeping fish alive;
--freelancing.

039 Discussion continues between HELLEBUYCK and SEN. DUKES regarding Regional Power Act; Pacificorp prices and providing competition between companies. Refers to cost reductions through this mechanism.

090 BILL WARREN, Public Utilities Commission: Testimony in support of the bill (EXHIBIT G). Refers to:
--flexibility;
--incentives;
--mechanisms;
--market evolution;
--basic competition;
--PUD's intermediate term;
--large industrial loads; residential or smaller customers; HB 2846; cost reductions;
--captive customers; rate making protection.

114 CHAIR: Do you anticipate cost savings to residential customers?

118 WARREN: Responds affirmatively referring to financial incentives; cost reductions in the long run.

124 SEN. MCCOY: Would like to recommend a conceptual amendment, that those savings be passed onto the people, the ratepayers. I don't want them to have all of them, but a certain percentage, in the form of cheaper rates.

133 CHAIR: Asks Mr. Warren to address SEN. MCCOY's suggestion.

136 WARREN: Refers to a range as a possibility; customer savings; least cost practices; awards to all parties.

167 CHAIR: Points out a part of the bill to Sen. McCoy. Discussion continues. A Work Session will be scheduled for Thursday.

177 WARREN: Makes a suggestion for a conceptual amendment.

182 SEN. LIM: If the profit is taken away by the PUC from the company why should they work hard and what's the point of competition?

190 WARREN: Responds; refers to setting and resetting of rates; specific date for Pacificorp.

199 HELLEBUYCK: Mentions risk, reward, cost saving; achieving an increase of earnings. States that the flip side of that is if we try something and it doesn't work, then we will experience a reduction in earnings. We want the ability to succeed or fail.

203 CHAIR: Closes PUBLIC HEARING on HB 2846-A.

209 CHAIR: Opens WORK SESSION on HB 2036.

224 DARRELL FULLER, Committee Administrator: Gives overview and House history of the bill. There are -6 amendments from the Department of Consumer and Business Services (EXHIBIT O) and -5 amendments from Jim Markee (EXHIBIT N).

258 WITNESSES: Mary Alice Bjork, Department of Consumer and Business Services
John Mangan, Standard Insurance Company
Lewis Littlehales, Department of Consumer and Business Services
Jim Markee, Surplus Lines

284 MARY ALICE BJORK, Department of Consumer and Business Services: Fiscal impact is now zero because it addressed the renewal fee which would be gone.

MOTION: CHAIR moves to ADOPT the
HB 2036 -5 and -6 amendments.

VOTE: CHAIR Hearing no objection, the HB 2036 -5 and -6 amendments are ADOPTED.

MOTION: CHAIR moves HB 2036, AS AMENDED, to the
Floor with a DO PASS recommendation.

285 SEN. MCCOY: Why don't you explain the -5 and -6 amendments?

288 JOHN MANGAN, Standard Insurance Company: Testimony in support of the bill.

LEWIS LITTLEHALES, Department of Business and Consumer Services: Testimony in support of the bill (EXHIBIT M).

289 JIM MARKEE: Explains the -5 amendments as requested by SEN. MCCOY.

300 VOTE: MOTION PASSES.
AYES: DUKES, MCCOY, LIM and KENNEMER
EXCUSED: DERFLER
CARRIER: KENNEMER

301 CHAIR: Closes WORK SESSION on HB 2036.
CHAIR: Opens WORK SESSION on HB 2845.

304 Discussion takes place regarding language for a conceptual amendment.

318 MOTION: SEN. DUKES moves to ADOPT the conceptual amendments to HB 2845-A engrossed.

VOTE: CHAIR Hearing no objection, the HB 2845-A conceptual amendments are ADOPTED.

MOTION: SEN. DUKES moves HB 2845, AS AMENDED, to the Floor with a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DUKES, MCCOY, LIM and KENNEMER
EXCUSED: DERFLER
CARRIER: DUKES

319 SEN. DUKES: States she has supported and worked with the county clerks association for years and this is one time in which they did themselves a disservice in the method in which they lobbied bill.

320 CHAIR: Closes WORK SESSION on HB 2845 A.

TAPE 100, SIDE A

020 CHAIR: Opens WORK SESSION on HB 2969-A.

025 CHAIR: Gives history of the bill.

MOTION: SEN. MCCOY moves 2969-A engrossed, to the Floor with a DO PASS recommendation.

059 Discussion occurs on an issue raised by SEN. LIM.

VOTE: MOTION PASSES.
AYES: DUKES, MCCOY, LIM and KENNEMER
EXCUSED: DERFLER
CARRIER: KENNEMER

070 CHAIR: Closes WORK SESSION on HB 2969-A engrossed.

074 CHAIR: Opens PUBLIC HEARING on HB 2051.

075 DARRELL FULLER, Committee Administrator: Explains the bill.

WITNESSES: Lynn Schoessler, Housing and Community Services
Gary Van Horn, Division of State Lands

097 LYNN SCHOESSLER, Housing and Community Services: Testimony in support of the bill (EXHIBIT H).
Gives history of their program; refers to Oregon Rural Rehabilitation Fund created as a part of the New Deal. In 1991 it was designated to develop farmworker housing. We were requested to administer that for the state Land Board executing loans for farm worker housing around the state. Division of State Lands is interested in transferring the entire fund to our department. That will eliminate a reporting layer that exists and explains. Refers to success of their program; interest rates for profit and non-profit groups.

GARY VAN HORN, Division of State Lands: Testimony in support of the bill (EXHIBIT J). From our perspective as the administrator of common school fund this particular program has nothing to do with those responsibilities.

117 CHAIR: Closes PUBLIC HEARING on HB 2051.
CHAIR: Opens WORK SESSION on HB 2051.

MOTION: SEN. MCCOY moves HB 2051 to the Floor with a DO PASS recommendation.

VOTE: MOTION PASSES.
AYES: DUKES, MCCOY, LIM and KENNEMER
EXCUSED: DERFLER
CARRIER: MCCOY

129 CHAIR: Closes WORK SESSION on HB 2051.
CHAIR: Opens PUBLIC HEARING on HB 2054 and HB 2055.

131 CHAIR: I am awaiting a revenue impact statement on these because the purchasers of these tax free bonds pay no income taxes on the interest, so would not anticipate moving these bills

until I hear more about what that impact is.

135 WITNESSES: Lynn Schoessler, Housing and Community Services

LYNN SCHOESSLER, Housing and Community Services: (EXHIBITS I & L) Explains the bill. Refers to first-time home buyers and \$100,000 threshold. Addresses:
--bank commitment;
--tax exempt bond rate;
--to Housing Council and one month meeting;
--commercial rate;
--less than normal income on that loan;
--increase to 150,000 loan;
--Frank Brawner;
--loan review threshold;
--single family program;
--Portland metro area price of houses.

160 CHAIR: You indicated when we met that the average home right now; your financing part of that is \$65,000.

163 SCHOESSLER: Correct on a statewide average. In the Portland metropolitan area every month we have three or four loans that have to go to the State Housing Council for review.

164 SEN. DUKES: You are making loans to low income families?

SCHOESSLER: Our department makes loans across the spectrum. This program addresses first-time home buyers who can afford to purchase a home. The average home mortgage is at \$65,000; the average income for people who participate in our program is \$28,800. Median income for Portland is about \$42,000; the balance of the state is about \$37,000. That is income of all household members; anticipated to be two wage earners.

192 SEN. DUKES: Is there some requirement that they can't get a loan at a regular bank?

191 SCHOESSLER: No, we do require that they be first-time home buyers except in those areas of the state where that requirement is waived. By statute this program cannot serve anyone whose income exceeds median income.

211 CHAIR: Historically these things have progressed over time and I think it is very appropriate that we ask these questions and we are in agreement. They are asking that we move the marker and little higher and take 120 percent of median income. Also, these programs cost us lost revenues in that these are tax free bonds that finance them and people do not pay their nine percent income tax on the interest that they earn.

230 Discussion continues regarding the program.

240 SCHOESSLER: Addresses the fact that this is a federal program. Explains points below commercial rate; that translates to about a \$60 to \$70 savings in their mortgage payment. Explains and refers to:
--formula lenders use to calculate what family can afford based on income;
--daycare obligations;
--utility expenses;
--building equity;
--move from poverty to productive and responsible citizens.

277 SCHOESSLER: Comments regarding bonding authority of the state.

284 SEN. MCCOY: Would like to see the schematics for this.

292 CHAIR: Explains our schedule for final committee meetings.

308 SCHOESSLER: Gives details of HB 2055 which he states relates to multi-family housing.

Refers to:
--non-profit and for profit sponsors and statutes;
--median income;
--constraint private enterprise is not accustomed to;

327 This bill allows twenty percent of the tenants to have incomes of up to 120 percent of the median income. Explains giving extensive percentages and stipulations governed by Federal law.

352 SEN. MCCOY: States that it sounds good, but that is never the way that

it works. Comments on Federal housing in downtown Portland; states he believes everybody there has a high income.

367 SCHLOESSLER: We have to go into these annually and verify the tenant mix.

373 SEN. MCCOY: Further comments on the follow through and other government problems.

388 CHAIR: Closes PUBLIC HEARING on HB 2054 and HB 2055.

CHAIR: Adjourns the meeting.

Submitted by, Reviewed by,

Carol A. Smith Darrell W. Fuller
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Testimony on HB 2238, Howard Fenerstein, Eagle Crest Resort - 2 pages
B - Proposed amendments to HB 2345, Jim Carlson - 1 page
C - Testimony on HB 2345, Meredith Cote - Long Term Care Ombudsman - 4 pages
D - Testimony on HB 2659-A, Heide Anderson, Architects Council of Oregon - 10 pages
E - Testimony on HB 2659-A, Raymond A. Boucher, Board of Architect Examiners - 8 pages
F - Testimony on HB 2846-A, Bruce Hellebuyck, Pacificorp - 2 pages
G - Testimony on HB 2846-A, Bill Warren, Public Utility Commission - 5 pages
H - Testimony on HB 2051, Lynn Schloessler, Oregon Housing and Community Services Department - 2 pages
I - Testimony on HB 2054, Lynn Schloessler, Oregon Housing and Community Services - 1 page
J - Testimony on HB 2051, Gary Van Horn, on behalf of Gustafson, State Lands Division - 1 page
K - Testimony on HB 2055, Oregon Housing and Community Services - 1 page
L - Testimony on HB 2345, Richard Pagnano, Samuels, Yoelin, Weiner, Kantor and Seymour - 2 pages
M - Testimony on HB 2036-A Lewis Littlehales, Department of Consumer and Business Services
N - Proposed -6 amendments to HB 2036, Jim Markee, Surplus Lines - 2 pages
O - Proposed -5 amendments to HB 2036 Department of Consumer and Business Services -3 pages