

House Committee on Business and Consumer Affairs February 26, 1991 -  
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report a speaker's exact words. For complete contents of the  
proceedings, please refer to the tapes.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

February 26, 1991  
P.M.

Hearing Room F 1:30  
Tapes 36 - 39

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken,  
Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep.  
Beverly Stein Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta  
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2178 WS HB 2047 PH & WS HB 2048  
PH & WS SB 14 PH & WS HB 2081 PH HB 2323 PH

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TAPE 36, SIDE A

006 CHAIR SCHOON calls the meeting to order at 1:37 p.m., announces the  
order in which the agenda items will be considered and opens the work  
session on HB 2178.

HB 2178 - ALLOWS OIL HEAT COMMISSION TO ESTIMATE AMOUNT OF ASSESSMENT  
DUE FROM OIL MARKETER AND MAKE DEMAND FOR PAYMENT.

021 MOTION: REP. RIJKEN moves that the committee reconsider the vote by  
which HB 217 8 was sent to sent to the floor with the recommendation  
that the subsequent referral to Revenue be rescinded.

024 CHAIR SCHOON: The committee rescinded the subsequent referral to  
Revenue and we were told we should not have. We had a letter from the  
Executive Department saying they had never considered these revenues.  
Irrespective of that we were requested to not rescind the referral.

032 VOTE: In a roll call vote all members vote AYE.

034 CHAIR SCHOON declares the motion PASSED and announces that the bill  
be back on the agenda for a work session at the next meeting.

036 CHAIR SCHOON opens the public hearing on HB 2047.

(Tape 36, Side A) HB 2047 - MODIFIES LANGUAGE TO REFLECT CURRENT  
ORGANIZATION OF BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS.  
Witness: Barbara Orazio, Board of Examiners of Nursing Home  
Administrators

039 TERRY CONNOLLY, Administrator, reviews the Preliminary Staff Measure  
Summary on HB 204 7 (EXHIBIT A).

044 BARBARA ORAZIO, Board of Examiners of Nursing Home Administrators submits and reads a prepared statement in support of the bill (EXHIBIT B).

096 REP. WALDEN: What is implication of the change in Section 9(3)?

099 MS. ORAZIO: This was proposed by one of the members of our subcommittee on Rules to make the wording clearer.

106 CHAIR SCHOON: On page 3, line 3, it says "unless a timely fee is paid." Where is the fee established?

109 MS. ORAZIO: It is established in ORS 678.760. The license renewal fee is \$100 a year; it is statutory up to \$150, but we have not charged that amount to this point.

117 CHAIR SCHOON closes the public hearing on HB 2047 and opens the work session on HB 204 7.

122 MOTION: REP. WALDEN moves that HB 2047 be sent to the Floor with a DO PASS recommendation.

133 VOTE:In a roll call vote, all members vote AYE.

136 CHAIR SCHOON declares the motion PASSED.

REP. BARNES will lead discussion on the Floor.

CHAIR SCHOON opens the public hearing on HB 2048.

(Tape 36, Side A) HB 2048 - PERMITS RETIRED PHYSICIANS TO SERVE ON BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS. Witness:Barbara Orazio, Board of Examiners of Nursing Home Administrators

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT C).

139 BARBARA ORAZIO, Board of Examiners of Nursing Home Administrators submits and reads a prepared statement in support of HB 2048 (EXHIBIT D).

169 CHAIR SCHOON closes the public hearing on HB 2048 and opens the work session.

170 MOTION:REP. STEIN moves that HB 2048 be sent to the Floor with a DO PASS

recommendation.

174 VOTE:In a roll call vote, all members vote AYE.

177 CHAIR SCHOON declares the motion PASSED.

REP. BARNES will lead discussion on the floor.

181 CHAIR SCHOON opens the public hearing on SB 14.

(Tape 36, Side A) SB 14 - DELETES PROHIBITION OF CHARGES ON SERVICES FOR COLLECTION OR EXCHANGE OF STATE FUNDS BY DEPOSITORY. Witness:Gary Bruebaker, Director of Cash Management for the Oregon State Treasury

The preliminary staff measure summary on SB 14 is hereby made a part of these minutes (EXHIBIT E).

188 GARY BRUEBAKER, Director of Cash Management for the Oregon State Treasury, submits and reads a prepared statement in support of SB 14 (EXHIBIT F).

202 REP. BARNES: Does "banks" include all financial institutions, like credit unions, savings and loans, etc.?

204 MR. BRUEBAKER: Public funds cannot currently be on deposit with a credit union. It does mean, literally, banks.

208 CHAIR SCHOON closes the public hearing on SB 14 and opens the work session.

210 MOTION:REP. OAKLEY moves that SB 14 be sent to the Floor with a DO PASS recommendation.

214 REP. WALDEN: Is there a fiscal impact on this bill?

214 MR. BRUEBAKER: No, there is not.

221 VOTE: In a roll call vote, all members vote AYE.

224 CHAIR SCHOON declares the motion PASSED.

224 REP. OAKLEY will lead discussion on the Floor.

229 CHAIR SCHOON opens the public hearing on HB 2081.

(Tape 36, Side A) HB 2081 - REVISES PROCEDURE TO FILE CLAIM NOTICE AGAINST PUBLIC WORK CONTRACTOR'S BOND. Witnesses: Donna Hunter, Tax Manager, Employment Division Steve Little, Oregon Department of Revenue Roger Lent, Employment Division Kim Mingo, Associated General Contractors John Gervais, National Electrical Contractors Association

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT G).

235 DONNA HUNTER, Tax Manager, Employment Division, introduces Roger Lent, Supervisor, Technical Support Unit and Steve Little, Department of Revenue. She submits and reviews a prepared statement in support of HB 2081 (EXHIBIT H).

Our Fiscal Impact Statement shows about \$80,000 a biennium. That was our best guess estimate.

284 STEVE LITTLE, Oregon Department of Revenue, submits a prepared statement in support of HB 2081 (EXHIBIT I). Our situation is nearly identical to that of the Employment Division. We have quarterly filings and generally speaking the time has run before we can identify the individual as not in compliance with income tax withholding laws and seek them out, ask them to comply and subsequently go against the bond if that is necessary. We would like to give them that opportunity to voluntarily comply once we have contacted them. That eats up more of the time and we simply are unable to make an efficient collection of income taxes due on the bond.

303 REP. BARNES: How would you track the last day a contractor provided labor and materials?

305 MS. HUNTER: In our investigation, instead of hitting against the bond we would like to go through a process of investigating the delinquency. That would be a part of the information we would seek. We would hope to enter into a payment plan or some other collection device before we have to hit at the bond.

313 REP. WALDEN: Of those you go after, what percent do you collect?

300 ROGER LENT, Employment Division: I would assume there would be five percent that we could not collect.

333 CHAIR SCHOON: Would you comment further on the out-of-state problem?

333 MS. HUNTER: That presents a problem in areas where we have contractors crossing the borders with other states. We work with Revenue to cite investigations to make sure contractors are in

compliance before they get the work done. We can have a problem where an employer leaves the state. The collection process becomes quite expensive and the effort we make doesn't bear the same results as in state.

356 KIM MINGO, Associated General Contractors: We are opposed to HB 2081 for several reasons: >This bill creates an undue burden on general contractors. >Subcontractor could be liable to SAIF or the Department of Revenue; that would put the general contractor's bond at risk. >Legislation goes beyond bounds of fairness and equity. >The bill may restrict the general contractor's ability to bid other work. >It will hurt the small subcontractors who do not have large bonding capabilities. >It would require the general contractors to hold a retainage and bonds of their subs for a longer period of time in anticipation that the general contractor's bond is being held. >In a recent Oregon Appellant Court decision, City of the Dalles vs. The Electric, Inc., the court held that the warranty work tolls the statutory notice period. The court held the 120 day statutory notice period did not start until the date the warranty part had been delivered. >The bill may extend the warranty period in excess of the one year that is written in the bill.

TAPE 37, SIDE A

009 REP. NAITO: Would you see this bill causing the cost of the bonds to increase?

MS. MINGO: We feel this would increase the cost because if a general contractor has extended his bonding capability, his surety may extend the limit but at a higher premium cost which the contractor passes on to his bid and on to the public.

016 REP. STEIN: Please elaborate on the relationship of the subcontractor and the general contractor in terms of the bonding requirement.

017 MS. MINGO: Normally on public works projects, general contractors are required to post the payment performance bond. It is optional, depending on the general contractor and his surety company whether that general contractor will require the subs to post their own bonds. Some sureties require a general contractor to have their substantial subcontractors to post bonds also. With this legislation, we would not be able to release those bonds of the subcontractors because our own bond is being held also. Most general contractors hold retainage of subcontractors.

026 REP. STEIN: What is the purpose of the bond?

029 MS. MINGO: I believe the payment and performance bond is there because on public works suppliers and subcontractors are not allowed to lien the project. The payment bond is to ensure that subcontractors and suppliers are paid. A performance bond is to ensure that the job is completed.

057 CHAIR SCHOON: Which is better to go against the bond or have the period extended so a payment procedure could be worked out?

064 MS. MINGO: In that situation I think an extended period of time would suffice, but our problem is that we don't agree with the one-year period. The federal statutes allow 90 days from the last date that labor and material is provided. The Oregon statute is 120 days; we feel that is sufficient time to file a claim.

073 I am not ready to go into how to change their system. I am saying to extend the period to a time would create numerable problems for general contractors. They are looking at a year and with the new court decisions it could be a period longer than one year.

080 JOHN GERVAIS, National Electrical Contractors Association: We have some sympathy with the time the departments have to resolve the problem,

but our contractors sometimes cannot identify the problem within the 120 days and can find out we are hung out without ability to resolve it. While we are not enthusiastic about the one-year period, six months would be a reasonable time but we would like to have it changed in the other section so we can manage the situation better. I would agree with the Chair's question that seemed to bring out that it is more severe to go against the bond than it is to provide for the number of days. I think there is some reason to this bill and would like to work with the committee.

099 CHAIR SCHOON closes the public hearing on HB 2081.

132 CHAIR SCHOON opens the public hearing on HB 2323.

(Tape 37, Side A) HB 2323 - REQUIRES PERSON PROVIDING TREE SERVICES TO REGISTER WITH CONSTRUCTION CONTRACTORS BOARD AS TREE SERVICE CONTRACTOR. Witnesses: Rep. Bob Repine Dell Isham, Oregon Arborist Association Dick Proudfoot, Chair, Oregon Arborist Association Rep. Larry Sowa Marion Dennis Vaden, Owner, M. D. Vaden Company Paul Munn, Owner, About Oregon Tree Care Barbara Phillips, Red's Stump Removal Ed Dreske, Ed's Tree Service Dorothy Pratt, Sylvan Tree Service William L. Owen, arborculture consultant and Chairman, Certification Review

Board of the Pacific Northwest Chapter of the International Society of Arboriculture Bill Gilmore, President, Metro Forestry Terry Wright, Terry Wright Tree Service Ira Miller, owner and employe of tree company Douglas Fowler, Fowler Tree Surgeons Richard Holmes, Holmes Tree Preservation Co. Ira Price, Price's Tree Service Bob Hall, Portland General Electric Sara Baker-Sifford, Oregon Rural Electric Cooperative Association Ken Keudell, Administrator, Construction Contractors Board and Landscape Contractors Board Keith Young, Young's Tree Surgery Jim Brisbee, Tree Care Unlimited John Landon, General Tree Service Dave Benevitis, Budget Experts

138 MR. CONNOLLY reviews the Preliminary Staff Measure Summary on HB 2323 (EXHIBIT J).

148 REP. REPINE: I chaired an advisory group during the interim on a bill I introduced last session that talked about the necessity of licensing for tree trimmers. There is an apparent need that this group of service providers need to have some opportunity to be recognized and have a form of formal licensing so there is a certain trust and certainty when they deal with the consumers.

The task force included line clearers for power companies, agriculture people, and fruit growers. They took the topic of tree trimming to all aspects and how it might affect them. This bill is the result of that committee work. In presenting it to the Sunset Review Committee during the interim for adoption there was some concern as to government regulating society. I believe regulation should be limited, but when a group of individuals such as the tree trimmers have identified the need and concerns that plague their industry, and asks for self-licensing and restrictions and demands placed on their ability to perform a task, I think it is incumbent on the Assembly and the State of Oregon to give that some consideration. This is an opportunity to help identify those who try to deal in an honest business fashion and maybe discredit those who are doing it illegally and also place a burden of obligation and punishment to those who participate in dishonest delivery of services.

199 REP. STEIN: On page 3, lines 9 through 12, you exempt certain people from this act. If the intent was to have high quality tree trimming, why would we exempt these people?

213 REP. REPINE: From testimony we received, persons who provide tree service exclusively for orchards are usually the field workers on the premises and they trim those trees based on the direction of the owner of the orchard. In most cases, that is not a hired trimmer. Subsection (c) deals with clearing lines for utilities. They are pretty well regulated by a document that declares the technique and procedures that line clearing for utility lines will be undertaken. Subsection (b) covers those who would work directly under the direction of the State of

Oregon. It is not a consumer contract kind of relationship.

253 REP. BARNES: Why would you want to lump tree service in with the construction industry? It seems they are performing the same function as lawn maintenance, carpet cleaners--it is a service.

260 REP. REPINE: Presently the Building Contractors Board deals with similar licensing of professionals and have the ability to administer the framework in which this bill is set up. They are the ones who get the complaints from the consumer. It is also an area where the potential of enforcement can be coupled with their field enforcement activities. It seemed to be a natural location for a licensing process.

291 REP. NAITO: Would there be educational requirements other than the examination requirement in Section 10.

292 REP. REPINE: Dell Isham will probably talk to the merits of licensing activity and why we drew those conclusions. A lot of consideration was given to what level or degree of licensing and testing should be mandated. Generally the consensus was that some form of analogy or professional ability had to be demonstrated. Some states use an open book test. We want them to look at a document and say this is proper techniques and transfer it to practice.

313 REP. NAITO: What you read about pruning techniques is often very different when you are faced with the actual shrub and I am concerned that someone might be a perfectly good pruner, but not be able to read and take a written test. Would there be an option for a person to take a practical test?

322 REP. REPINE: I will yield to others who will be able to describe the aspects of the tests.

347 REP. SCHOON: We have 40 people signed up to testify.

352 DELL ISHAM, Oregon Arborist Association, introduces Dick Proudfoot, submits and reviews portions of a prepared statement in support of HB 2323 (EXHIBIT K).

TAPE 36, SIDE B

MR. ISHAM continues with statement.

136 DICK PROUDFOOT, Chair, Oregon Arborist Association, submits and reads a prepared statement in support of HB 2323 (EXHIBIT L).

210 REP. LARRY SOWA, District 26, Clackamas Co.: The State and Federal Affairs Committee, of which I am a member, recently passed out a bill that would have reduced the number of categories under the contractors board from seven to five. This would move that from five to six. My concerns about this bill are that we have a lot of tree services that weren't considered in the process and I would be willing to work with the committee to try to work out some of the concerns you will hear from people in my district and other districts around the state that represent the small businesses that would be either excluded from this process or required to hire somebody on staff that could cause them extreme financial hardship. Very little of their business requires the expertise of a certified arborist. I ask that you look at the other side also and reduce the number of categories under the Contractors Board. I made sure tree services were included under those categories and now we see a bill that could further complicate the process.

263 REP. STEIN: What other category did you drop out of the Contractors Board?

REP. SOWA: We moved the parameters of the categories down but didn't drop tree services; we included tree service in the Contractors Board. They want their own category and I don't object to that other than why didn't we do that when we were getting rid of a bunch of categories. I will work with the committee to work this out.

267 MARIO DENNIS VADEN, Owner, M. D. Vaden Company, submits and summarizes a

prepared statement in opposition to HB 2323 (EXHIBIT M).

TAPE 37, SIDE B

025 PAUL MUNN, Owner, About Oregon Tree Care, submits and reads a prepared statement in opposition to HB 2323 (EXHIBIT N).

087 REP. NAITO: Who is involved in the Oregon Arbor Association?

MR. MUNN: It is made up of private tree care providers. The Oregon State Construction Contractors Board is a regulatory board. In this legislation it says a member of the Arbor Committee can also be a member of the board (Section 14(1)).

101 REP. NAITO: Are you a member of the association?

094 MR. MUNN: I am not. I am opposed to having any outside influence on my business. I want to be in direct control of my business and the OAA is regulating its members. There is a clause in this legislation that states if for any reason the OAA decides to revoke or suspend your license, you will not be eligible to reapply for two years. They will also conduct inspections of your work site, which I don't disagree with until I understand that a member of the OAA who is also a member of the Construction Contractors Board puts the control of government directly into the hands of my competitors. If they make a determination against me as a state body, they are also making a determination against me as the OAA.

124 REP. BARNES: How does one go about acquiring the title of arborist?

124 MR. MUNN: You have to either go through the International Society of Arboriculture or the National Arborist Association. They offer home study courses and testing for certification. You have to apply to them and meet their criteria. Section 3 of this legislation defines "arborist" as anyone who performs tree service.

150 BARBARA PHILLIPS, Red's Stump Removal, Roseburg: I am the sole proprietor and an independent contractor and if this bill goes through, I will have to hire an arborist. I barely make a living as it is. Why would a stump removal business have to have an arborist?

167 ED DRESKE, Ed's Tree Service: I have learned the work and the industry through on-the-job training and have worked for some well known companies in Portland. I have learned many techniques for pruning which makes me special in the industry in that I have a lot to offer. I have also worked for electrical workers trimming power lines and the fact that not having them regulated too is ridiculous. Some of the worst pruning comes from electrical workers.

They say there is no control in the industry. If you trim a tree in a parkway in Portland, you will have problems because you need to apply for a permit. They do specify the pruning techniques that are to take place. We will have the Contractors Board duplicating itself with the controlling factor being a small group of men in business and we have a conflict of interest here.

196 DOROTHY PRATT, Sylvan Tree Service: In the last three years I have learned a great deal about trees. When I make a bid, I make every attempt to inform our customers, give them pamphlets and explain to them they need to hire someone who is insured and bonded. I feel we are going to change the tree industry by informing the public. We won't stay in business if we don't do good work. If this bill passes, it will eliminate a lot of small tree services because we cannot afford to hire an arborist or we may not be able to become certified by their definitions. The bill is not clear enough on what a certified arborist is to be; that can be changed to meet their needs. We have our own contract which is self-explanatory to the customer and they pay us when the job is done properly and if they don't like the work they don't pay

us.

If it is so important to be a certified arborist, why does the bill not require that at least one person on the Arbor Committee be a certified arborist? I disagree that consumers are not capable of assessing proper tree care. People care about their trees and that is why they pay good money to have them taken care of.

277 WILLIAM L. OWEN, a consultant in arboriculture and Chairman of the Certification Review Board of the Pacific Northwest Chapter of the International Society of Arboriculture: We are a world wide organization of people who are concerned about trees from all facets. >In the U.S. today over \$2 billion a year is spent on tree cutting. >National Arborist Association firms do 60 to 70 percent of the work and employ 60 to 70 percent of people who do the work. >Frequent lawsuits on damaged trees. >There is room for everyone in the tree care industry and the heart and sole of the industry is the small operator. Anyone who is reasonably competent has nothing to fear from this legislation; it will only put them in a better posture to do better work for their clients. >It is good and necessary legislation because it adds a level of protection for the consumer that he does not now have and deserves from his legislators. >They are certifying at the rate of 20 to 30 persons per exam and are giving five and six exams a year. In the Pacific Northwest we have about 45 certified arborists now and we have been in existence less than two years. On April 15 we will probably certify another 25. A great many of the people seeking certification are the very small mon and pop, huSB and and wife, or single operator companies. >Exam can be used as teaching tool and that is the intent of this legislation. >The need to upgrade and certify is here.

TAPE 38, SIDE A

046 BILL GILMORE, President, Metro Forestry: I have a small commercial and residential arboriculture firm in Portland. I am an Urban Forester besides being a certified arborist with the International Society of Arboriculture. I support HB 2323. I am required currently by state law to be licensed, insured and bonded; I am not required to be competent. Our company has been in business since last April and I have perceived a highly unregulated field. The wheel is getting reinvented day by day. How do customers know they are dealing with three stooges or a professional. I have heard fear and concerns about this bill. This bill will open the door for quality work. There shouldn't be any problem for people who have been in business. It is a matter of knowing the right kind of pruning cuts, how much should be taken out and stop the myth of certain practices. The killers of trees are 1) construction trauma and 2) improper pruning.

075 TERRY WRIGHT, Terry Wright Tree Service: I have been in the tree business for 18 years. I have never been in a lawsuit and never had a dissatisfied customer. I am not afraid of taking the test and my competency, but I am concerned about wording in bill. There are a lot of things in the bill like Section 13. >If you fail to pass the examination, you can't have a certificate. >People have their own opinions about the quality of their work. >The bill is very loose and I might understand the bill if they had tied a lot of the loose ends that could be abused down the line. >I do not advertise; 95 percent of my business is from referral work. I am called to the job. >The last time I had information on the Oregon Association of Arborist, it was a matter of writing out a check to become a part of the organization. They have only been giving certifications for less than two years. I have been around for 18 years, my father for 30 years and my grandfather before that. >I agree trees in Oregon sometimes are not trimmed by people who know what they should be doing, but I also know that every tree is different. Unless I am going to have the arborist hooked to my arm when I am trimming, there is no way he can tell me exactly how I am supposed to do my job. >I am not afraid of this, but I am afraid that one day we are going to be in red tape up to our neck and I don't think this bill, at least in its present form, is something that I would be for.

155 REP. STEIN: Do you have to register with the Constructors Contractors Board?



155 MR. WRIGHT: Yes. We are insured and bonded and licensed by the board. Before this came up, I carried triple the amount of insurance required by the state. We are already regulated. This will knock a lot of small tree services out of business.

168 CHAIR SCHOON: Are you a specialty contractor?

178 MR. WRIGHT: Yes, and we are required to have a \$5,000 surety bond posted.

176 IRA MILLER, owner and employee of a small tree care company: I have spent most of my life in the tree care industry. I am a journeyman arborist. I have mixed emotions about HB 2323. I believe in arborist certification; there is a real need for it. My opposition is with the committee formation and the possibilities of conflict of interests. There are individuals in the organization who have stated that when they are done there will only be two or three large tree companies in the Portland metropolitan area. Mr. Naito, Chairman of the Urban Forestry Commission, has indicated he would like to hold meetings to hear the concerns of metro Portland and local arborists; I would like to see that. I would not want to see the bill die, but I have strong concerns about the committee. There may be people who could not pass the test because of learning disabilities or lack of education and I don't think they thought about addressing that.

314 DOUGLAS FOWLER, Fowler Tree Surgeons, submits and reads a prepared statement in opposition to HB 2323 (EXHIBIT O).

405 RICHARD HOLMES, Homes Tree Preservation Co., Corvallis: I employ two persons and believe this bill has a lot for education in two ways, one for the consumer and one for the arborist. I teach one term per year at Linn-Benton Community College in arboriculture and I believe in education. I believe with this bill the arborists will have to show a competency and demonstrate a certain amount of education. I also believe the consumer will receive education that when he hires someone he will know they have this level.

TAPE 39, SIDE A

005 IRA PRICE, Price's Tree Service, Portland: I go along with this bill as far as the education, but not the way the bill is written and I don't believe an adequate number of people were notified. This bill is not ready to be pushed through. I oppose this bill until much further input is put into the bill.

060 BOB HALL, Portland General Electric, submits and reads a prepared statement proposing amendments to HB 2323 (EXHIBIT P).

079 SARA BAKER-SIFFORD, Oregon Rural Electric Cooperative Association: If the intent of the drafters is to exempt all electric utilities, the reference to ORS 757 .005 only refers to the investor-owned electric utilities. In order to assure that the municipal electrics, PUDs and electric cooperatives are included in the exemptions for all electrical utilities, I will submit testimony in writing for the correct reference for us which is ORS 758 .505(6) (EXHIBIT Q).

087 KEN KEUDELL, Administrator, Construction Contractors Board and Landscape

Contractors Board submits and reads a prepared statement (EXHIBIT R).

139 CHAIR SCHOON: This bill would add another category equal to the contractor, general contractor, and residential contractor. Are you saying that the tree service contractor should have equal status with the other types of contractors?

147 MR. KEUDELL: The tree service contractor fits into the category of a residential contractor B. It is not very descriptive of what they do even if they are working beyond residential that is still the category they fit in. It is my belief that the category needs to be descriptive

of what they do. The seven categories which we have today, and will be cleaned up with the passage of HB 206 1, are confusing. One is no greater or important than the other. The purpose of cleaning them up is to let people know which category they ought to be in. Adding a category that says "tree service contractor" would be better than to say they are a "residential contractor B." That doesn't describe what they do.

164 CHAIR SCHOON: Are they not a specialty contractor?

164 MR. KEUDELL: They could be, but the proper wording could be put in this bill or into HB 206 1 and make them a specialty contractor. That is what we have actually done. We have combined the residential and the commercial so we have, in HB 2061, a general contractor and a specialty contractor. Within each of those, you have residential only or all structures. Then there is a limited contractor for those kinds of areas that don't do a large volume of work and the jobs are small, or the person is only in construction part of the time. If you choose not to call them a tree service contractor, you could call them a specialty contractor.

197 CHAIR SCHOON: What benefit would there be to the consumer?

200 MR. KEUDELL: The person would have demonstrated by an open-book demonstration that they understand trees. This bill would take it one step further and say the people who do the work have the competency or are working under someone who does and the consumers would have the claims process.

215 CHAIR SCHOON: How many claims were there last year on bonds of tree service companies?

MR. KEUDELL: Something less than 200 tree service companies are registered. I don't have the information; there may not have been any.

222 CHAIR SCHOON: Are you getting a lot of complaints?

221 MR. KEUDELL: There are more than 23,000 registered contractors and this is only a very small part of the regulated and they have only been registered for about a year.

229 CHAIR SCHOON: We would like for you to provide us the information on the problem?

232 REP. WALDEN: Does the fiscal impact statement include enforcement?

MR. KEUDELL: There is a small amount of increase in enforcement. If it were all put together it would be another investigator and would be about the same as the one we have in Hood River County. I was surprised that it could be administered with that number of people.

247 REP. NAITO: Would the licensing fees need to be increased?

250 MR. KEUDELL: The licensing fee for the exam of \$35., the arborist certification would be \$50 and reduced to \$40 at renewal time, and the tree service contractor fee would be \$85; it is now \$65. That would generate sufficient revenues to make this pay its own way.

270 REP. WALDEN: Are the fees set by rule or by statute?

272 MR. KEUDELL: The fees have to be approved by the E Board or Ways and Means.

277 REP. WALDEN: Is there a cap on the dollar amount?

MR. KEUDELL: No.

286 KEITH YOUNG, Young's Tree Surgery, Estacada: I am opposed to the bill. You don't learn to trim out of a book. There is a need to know different types of trees and their care, but as far as general trimming

it is pretty basic. You can over trim and everybody knows what is improper and some is going on, but everyone knows who is doing it and they don't last long in the business. >My personal idea of this is the OAA seems to be a group of people who, if you don't belong to their organization, don't give you information as to these bill. >It seems the way the bill is written the OAA are doing the policing. My bigger competitors are the ones making the rules and if they are devising the test on how to trim a tree, they should include more of us.

340 JIM BRISB EE, Tree Care Unlimited, Lake Oswego, submits and reads a prepared statement in support of HB 2323 (EXHIBIT S).

361 JOHN LANDON, General Manager, General Tree Service, Clackamas: >I support this bill but not for purposes of eliminating competition. I assume we will continue to be in business whether or not this bill is passed. >The purpose is to address the concerns to preserving and protecting trees and consumers. Improper tree work is being done. Many things have been shown to be improper techniques. >I have heard talk that some feel they will have to hire an arborist. My understanding is that the certification process in the bill will be an open book type of exam and there may be allowances for previous tree care. It is my feeling those who are out there practicing tree care for money should be able to pass the exam.

451 CHAIR SCHOON: Can you get certified as an arborists through one of the professional organizations now?

MR. LANDON: Yes.

457 CHAIR SCHOON: I have seen legislation where people were prevented from using "certified" or "registered" unless they have met some qualifications. Would that help the industry people who are certified?

465 MR. LANDON: I would think so.

TAPE 38, SIDE B

030 DAVE BENEVITIS, Budget Experts: I have a small tree business and have been doing tree service work for the past 17 years. I oppose this bill. I am not against the upgrading of the industry; I think it is important that we upgrade the industry. But there are too many loose ends in the bill. It seems to put a lot of jurisdiction into the hands of a few. There is direct competition between those people and ourselves. There is a purging in the industry and if you don't do good work, it gets around. We don't need more bureaucracy. We are governed by the Contractors Board which requires that we have a surety bond and meet the liability insurance. Those who chose to stay in the industry met those requirements, those who didn't got out. Some kind of certification should be done, but not by the Oregon Arbor Committee.

ALEX WYNSTRA, JR., City Forester, City of Portland, submits but does not present a prepared statement in opposition to HB 2323 (EXHIBIT T).

072 CHAIR SCHOON declares the meeting adjourned at 4:32 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins  
Assistant

Terry Connolly  
Administrator

EXHIBIT SUMMARY

A -HB 2047, Preliminary Staff Measure Summary, staff B - HB 2047, prepared statement, Barbara Orazio C -HB 2048, Preliminary Staff Measure Summary, staff D -HB 2048, prepared statement, Barbara Orazio E -SB 14, Senate Staff Measure Summary, staff F -SB 14, prepared statement, Gary Bruebaker G -HB 2081, Preliminary Staff Measure Summary, staff H -HB 2081, prepared statement, Barbara Hunter I -HB 2081, prepared statement, Steve Little J -HB 2323, Preliminary Staff Measure Summary, staff K -HB

2323, prepared statement, Dell Isham L -HB 2323, prepared statement,  
Dick Proudfoot M -HB 2323, prepared statement, Mario Vaden N -HB 2323,  
prepared statement, Paul Munn O -HB 2323, prepared statement, Douglas  
Fowler P -HB 2323, prepared statement, Bob Hall Q -HB 2323, prepared  
statement, Sara Baker-Sifford R -HB 2323, prepared statement, Kenneth  
Keudell S -HB 2323, prepared statement, Jim BriSB ee T -HB 2323,  
prepared statement, Alex Wynstra