

House Committee on HUD April 16, 1991 - Page

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.

HOUSE COMMITTEE ON HOUSING AND URBAN DEVELOPMENT

April 16, 1991Hearing Room D 8:00 a.m.Tape 67 - 68

MEMBERS PRESENT:Rep. Bob Repine, Chair Rep. Judy Bauman, Vice-Chair  
Rep. Marie Bell Rep. Rod Johnson Rep. Dave McTeague Rep. Gail Shibley  
Rep. Ron Sunseri

STAFF PRESENT: Janet McComb, Committee Administrator Kimberly  
Burt, Committee Assistant

MEASURES CONSIDERED: HB 3064 (WRK) HB 3065 (WRK) HB 3231  
(WRK) HB 2924 (PUB) HB 3201 (PUB) HB 3232 (PUB)

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TAPE 67, SIDE A

002 CHAIR REPINE: Calls the hearing to order. (8:00 a.m.)

Roll Call: Representatives Bell, Sunseri & Repine answer "present".

REP. JOHNSON excused.

PUBLIC HEARING ON HB 2924 Witnesses:Rep. Kevin Mannix, House District 32  
Rep. Ted Calouri, House District 17

Staff submits SMS, revenue and fiscal impact statements, (EXHIBIT A).

010 REP. KEVIN MANNIX, HOUSE DISTRICT 32: Testifies in support of HB 2924.

HB 2923 combines the State Landscape Contractors Board and the Construction Contractors Board which presently have a combined staff operation.

Rep. Shibley arrives. (8:05 a.m.)

040 REP. MANNIX: Introduces (-2) amendments, (EXHIBIT B).

CHAIR REPINE: The assessment for fees are how we offset the cost of programs for this type of board; do you anticipate that the fees would proportionately reduce to the new cost level to landscapers because of

this?

REP. MANNIX: I anticipate that there should be a proposal for reduction in the fee schedule next time around or at least they can prevent increases.

Because the boards already have combined staffing, the only real savings is in terms of a combined board; the board expenses themselves aren't that great.

060 REP. MANNIX: The important element of the bill is having a single unified board coordinating all the activities.

REP. SHIBLEY: On page 1 of the (-2) amendments, there is a new definition of landscaping business; is it your intent to include anyone who does any business.

REP. MANNIX: No, that definition is in current law and there are exemptions regarding small operators.

090 JANET MCCOMB, COMMITTEE ADMINISTRATOR: We have had testimony that when mobile home was replaced with manufactured housing last year it was incorrect as there are different definitions for mobile homes and manufactured housing.

100 REP. TED CALOURI, HOUSE DISTRICT 7: In the Ways and Means subcommittee we had both groups before us for their budgets and they mentioned that there was consideration to combining the boards.

We have left the budget in anticipation of them being combined.

REP. SHIBLEY: On page 18 of the (-2) amendments it talks about the CCB, but in sub(2) in section 23 it talks about the State Landscape Contractors board; should that be the board or committee?

REP. MANNIX: This is a standard implementation clause; it is appropriate to use the old terminology.

CHAIR REPINE: Would there be cost implications in the combination?

REP. CALOURI: Both groups suggested that there would be savings; part of it is a matter of charging one group for the expenses of the other group.

These kinds of groups are there to give oversight of the profession and to be investigating complaints and so forth and I think that there is benefit to allowing them to work together.

171 CHAIR REPINE: Are we talking about the same board hearing cases that effect both the construction contractors and the landscape contractors?

REP. CALOURI: We are combining boards giving them one name; there would be a landscape industry representative on that board and also the landscape committee will serve as a technical advisor to the new board.

REP. MANNIX: The revised membership of the board is on page nine of (Exhibit B).

205 REP. SHIBLEY: On the (-2), page 3, line 3; what is the intent of

who you want included?

REP. MANNIX: On page 6 we took out the exemption of landscape contractors and have put in a specific listing.

265 REP. SHIBLEY: Page 5, line 13; the definition of residential contractor starts, why on page 6, line 3, do you still tie the landscape people under the nursery people and gardeners from small case "D" to large case "A"?

REP. MANNIX: "D" says that if you are engaged in the commercial harvest of forest products and you are in engaged as an independent contractor to preform work as a landscaper, then you are; the exception is nursery person, gardener or person engaged in commercial harvest of forest products.

You could ask legislative council to turn this around to be more positive, but keep the exceptions.

REP. CALOURI: I have no problem with that.

305 CHAIR REPINE: We will stand at ease.

355 CHAIR REPINE: We will come back to order.

360 KEN KEUDELL, ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD, (CCB): Submits written testimony in support of HB 2924, (EXHIBIT C).

I submitted a summary of the bill, section by section, (see Exhibit C).

CHAIR REPINE: Does this refer to the (-2) amendments?

KEUDELL: Yes.

330 KEUDELL: Describing bill section by section.

REP. BELL leaves. (8:30 a.m.)

CHAIR REPINE: Do we need to add "mobile homes and"?

KEUDELL: We are comfortable with that.

TAPE 68, SIDE A

045 JANET MCCOMB, COMMITTEE ADMINISTRATOR: After 1976 they are referred to as manufactured homes, prior to that they are mobile homes.

070 KEUDELL: Both the Landscape Contractors Board and the Construction Contractors Board had concerns; when the (-2) was written we looked at and addressed those concerns.

If this consolidation is to occur it will be fair for both boards.

CHAIR REPINE: What happens with the savings from combining the two?

095 KEUDELL: A substantial amount of the Landscape Contractors budget is used to pay the CCB for 5% of the cost of personnel services; the big savings is from accounting and auditing and those sorts of costs.

The cost that isn't calculated at all is the cost of appearing before

Ways and Means, preparing a separate budget and other things that would no longer happen.

REP. MCTEAGUE arrives. (8:40 a.m.)

120 JIM STEMBRIDGE, DEPUTY ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD, (CCB): The definition of manufactured dwelling is in ORS 446.003; (A) residential trailer, (B) mobile home and (C) manufactured home and that is why we used manufactured dwelling at the suggestion of the manufactured housing association as it covers all three.

CHAIR REPINE: Representatives Bell, Shibley and Johnson are excused.

WORK SESSION ON HB 3064

145 MOTION: REP. BAUMAN moves HB 3064 to the committee on Revenue and School

Finance with a do pass recommendation.

MCCOMB: The chair of Revenue and School Finance has indicated that they would have a "tax exempt week" in the next couple of weeks when all the tax exemption bills will be heard and I expect that if we don't see that in the next few weeks we can remind her of her earlier intentions.

170 VOTE: In a roll call vote the motion carries unanimously. Members excused: REP. JOHNSON, BELL & SHIBLEY

WORK SESSION ON HB 3065

180 MOTION: REP. BAUMAN moves HB 3065 to the committee on Revenue and School Finance with a do pass recommendation.

CHAIR REPINE: For the record we will make it clear that the intention for HB 3065 is the same as HB 3064 in regards to the prior referral.

185 VOTE: In a roll call vote the motion carries unanimously. Members Excused: REP. JOHNSON, BELL & SHIBLEY

WORK SESSION ON HB 3231

192 MOTION: REP. BAUMAN moves HB 3231 to the floor with a do pass recommendation.

195 VOTE: In a roll call vote the motion carries unanimously. Members Excused: REP. JOHNSON, BELL & SHIBLEY CARRIER: REP. BAUMAN

PUBLIC HEARING ON HB 3201 Witnesses: Ken Keudell, Construction Contractors Board, (CCB) Kim Mingo, Associated General Contractors, (AGC)

Staff submits SMS, fiscal and revenue impact statements, (EXHIBIT D)

215 KEN KEUDELL, ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD, (CCB): Submits and reads written testimony in support of HB 3201, (EXHIBIT E).

295 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS, (AGC): Testifies in opposition of HB 3201.

In 1989 when the Construction Contractors Board was changed we supported the change with the condition that the current claims process available for residential contractors wouldn't be extended to commercial contractors.

There are currently two processes which allow owners and other contractors to file claims against commercial contractors, the process on private construction projects and the Little Miller Act Bond Claim process on public construction projects and we feel that these are adequate.

We don't want to create another avenue where contractors would be opposing other contractors.

311 MINGO: The non-residential structure, (4,000 sq ft, not higher than 20 ft) is only considered a residential structure if the work is performed by a residential contractor.

Last summer the Contractors Board brought this to us, asking us to support this and we did not do so at that time and we do not do so at this time.

The fiscal impact shows that this would, during the first biennium, result in \$80,000 and an additional \$88,000 in the second and we feel that this money could be better spent in enforcement.

333 MINGO: Enforcement is where commercial contractors feel that the Construction Contractors Board should emphasize it's direction as far as commercial construction.

We, as contractors, pay fees to the Construction Contractors Board and we expect them to enforce the laws regarding registration and that is where we want to see our fees go to.

This money that you see isn't monies coming out of the General Fund, it is monies that come from the fees that our contractors pay and we feel that instead of reviewing or administering another claims process, they should be using these funds to enforce the registration requirement.

Contractors who aren't registered in the State of Oregon take jobs away from contractors who are; normally contractors not registered are those who will not pay workers' compensation and their taxes also.

350 MINGO: We feel that their monies can be better directed in enforcement as opposed to the claims process.

360 STEVEN KAFOURY, OREGON REMODELERS ASSOCIATION: Testifies in support of HB 3201.

Going to court is an expensive process and we think that the Construction Contractors Board process is an excellent one, an expeditious one that often solves problems at the mediation negotiation level and that is in everyone's best interest.

In terms of enforcement, we have already been involved with getting more money for enforcement and we have had a large increase in the Construction Board budget for enforcement, so we think that problem has already been addressed in the budget.

400 KAFOURY: The reason for separating residential from commercial was

the feeling that residential people built a house or had it remodeled once or twice in their life time.

We think that those with one or two opportunities in a lifetime to get into a large scale construction project have the same necessities for assistance from the state as the homeowner does.

425 KAFOURY: We would like the \$10,000 increased to \$25,000 because of inflation in construction prices; that would still be a relatively small remodeling project.

REP. BELL returns. (8:58 a.m.)

REP. SUNSERI leaves. (9:00 a.m.)

475 KEUDEL: (In response to CHAIR REPINE) All contractors are registered; there are commercial or non-residential contractors who can be general or specialty contractors.

TAPE 67, SIDE B

035 KEUDEL: The general contractor incorporates more than two trades or crafts and all of the others working on non-residential would be specialty contractors.

The non-residential general contractor has a \$5,000 liability insurance policy and a \$10,000 bond.

The specialty contractor, the same liability and a \$5,000 bond.

042 KEUDEL: In residential we ended up with three classes of those who would work strictly in residential; residential "A", residential "B" & residential "C" contractors.

A is what most of us classify as a builder, "B" is a specialty contractor who could do small remodeling projects and "C" is limited at a maximum of \$30,000 gross income from construction per year.

The bond level for "A" is \$10,000, for "B" is \$5,000 and for "C" is \$2,000 and in all cases there is a \$100,000 liability insurance policy.

We have a two cross overs, a general contractor and residential contractor "A" and a specialty contractor and residential contractor "B" for those who work in both areas.

REP. SHIBLEY arrives. (9:03 a.m.)

070 KEUDEL: If a general contractor, residential contractor "A" did work on a structure of less than 4,000 square foot, then that claim is processed.

105 MOTION: REP. BAUMAN moves that Rep. Bell & Rep. Shibley be allowed to vote on HB 3064, 3065 & 3231.

VOTE: Hearing no objection the motion carries.

WORK SESSION ON HB 3064

110 CHAIR REPINE: How do you vote?

REP. SHIBLEY: Yes.

REP. BELL: Yes.

WORK SESSION ON HB 3065

113 CHAIR REPINE: How do you vote?

REP. SHIBLEY: Yes.

REP. BELL: Yes.

WORK SESSION ON HB 3231

116 CHAIR REPINE: How do you vote?

REP. SHIBLEY: Yes.

REP. BELL: Yes.

PUBLIC HEARING ON HB 3232

125 JANET MCCOMB, COMMITTEE ADMINISTRATOR: HB 3232 would allow the Construction Contractors Board to order that work be stopped immediately if the contractor wasn't registered at the time the work began.

The board may also order that work be stopped following a ten day notice if the contractors registration has lapsed while the project was underway or if the project isn't a residence.

Staff submits SMS, revenue & fiscal impact statements, (EXHIBIT F).

REP. JOHNSON arrives. (9:10 a.m.)

REP. SUNSERI returns. (9:11 a.m.)

137 CHAIR REPINE: We will stand at ease.

141 CHAIR REPINE: I will close the public hearing on HB 3232.

144 MOTION: REP. BAUMAN moves that REP. JOHNSON be allowed to vote on HB 306 4, 3065 & 3231.

VOTE: Hearing no objection the motion carries.

WORK SESSION ON HB 3064

146 CHAIR REPINE: How do you vote?

REP. JOHNSON: Yes.

WORK SESSION ON HB 3065

147 CHAIR REPINE: How do you vote?

REP. JOHNSON: Yes.

WORK SESSION ON HB 3231

150 CHAIR REPINE: How do you vote?

REP. JOHNSON: Yes.

PUBLIC HEARING ON HB 3232 Witnesses: Ken Keudell, Construction Contractors Board Rep. Gene Derfler, House District 31 Frank Brawner, Oregon Bankers' Association Steven Kafoury, Oregon Remodelers Association Fred Vannatta, Oregon Homebuilders Association

160 KEN KEUDELL, ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD: Submits written testimony in support of HB 3232, (EXHIBIT G).

REP. BAUMAN leaves. (9:15 .m.)

210 REP. GENE DERFLER, HOUSE DISTRICT 31: Testifies in support of HB 3232.

The problems we've had is with contractors doing construction work on residential properties and when they aren't registered with the Board, the Board can't stop the work for ten days and many times in the construction of residential properties, the job is completed in that time.

REP. JOHNSON: The last line in the bill sounds like no contractors can work on anything other than a residential structure.

REP. DERFLER: The purpose was that most commercial projects go longer than ten days and for a longer period of time where residential projects sometimes only last four to five days and they aren't able to put stop orders on those projects.

We didn't address the commercial aspect because we didn't find that to be a problem.

REP. JOHNSON: The last sentence of the bill says that contractors can only work on residential structures.

245 KEUDELL: You have to refer back to section 3 to get the meaning of that; in each of the "A"s, "B"s and "C"s there is no mention of being unregistered.

The Board may order the work stop immediately if the contractor is working on a residential structure and the contractor wasn't registered by the Board when the work began.

REP. JOHNSON: I think that C needs words that tie it into whether or not the contractor is registered or not, like A & B have.

REP. DERFLER: You have the ability to address that making it so that it will get at what we are attempting to accomplish.

265 REP. JOHNSON: You want the unregistered person working on anything other than a residential structure to have ten days to stop?

REP. DERFLER: That is currently the law and we want it so that on residential projects the board can stop them immediately.

272 CHAIR REPINE: What has gotten us to this point?

KEUDELL: There are a number of jobs that can be completed in the ten day time period; that is where most violations occur.



305 CHAIR REPINE: Why not do this for commercial projects also?

KEUDELL: We are only asking for as much law as we needed; we don't object to extending that to commercial projects.

CHAIR REPINE: How do you enforce this?

KEUDELL: On those with permits, the chances are high that the contractor was registered when they obtained the permit.

If we do a site check and find someone unregistered it may be an oversight and we would keep the ten day notice then.

395 KEUDELL: This law only applies to the primary contractor.

REP. BELL: How often do you find people who begin a job and then realize they need to get registered and go and do that after starting the job?

KEUDELL: We wouldn't stop work if the contractor is registered when we did the inspection.

REP. BAUMAN returns. (9:30 a.m.)

450 REP. BELL: Are there other punitive things tied into the stop order?

KEUDELL: There is a maximum fine of \$1000; the fine is greatly reduced if the contractor gets into compliance quickly and no one was harmed.

475 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Testifies in support of HB 323 2 with a clarifying amendment to make sure that the notice spoken to would go to the same persons listed in subsection 3, (EXHIBIT H).

When there is a lender involved in the construction, the lender should make sure that the contractor is licensed when the contract begins.

TAPE 68, SIDE B

040 BRAUNER: We pay out to subcontractors through the construction loan process at the direction of the contractor and if we receive notice of non-compliance we will be part of the corrective action to make sure that the problem is taken care of.

050 STEVEN KAFOURY, OREGON REMODELERS ASSOCIATION: Testifies in support of HB 3232.

Out of state contractors many times underbid for the projects as they don't pay workers' compensation, unemployment compensation or withhold taxes and they are able to leave the state within the ten day period, causing problems for enforcement.

You may want another amendment to keep the same thing from happening in small electrical projects.

083 FRED VANNATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: Testifies in support of HB 3232.

095 CHAIR REPINE: We are adjourned. (10:35 a.m.)

Submitted by:    Reviewed by:

Kimberly Burt    Janet McComb Assistant    Administrator

EXHIBIT SUMMARY:

A - HB 2924 SMS & revenue impact statement submitted by STAFF, pp 2 B - HB 2924-2 amendments submitted by MANNIX, pp 21 C - Written testimony on HB 2924 submitted by KEUDELL, pp 3 D - HB 3201 SMS, revenue & fiscal impact statement submitted by STAFF, pp 3 E - Written testimony to HB 3201 submitted by KEUDELL, pp 2 F - HB 3232 SMS, revenue & fiscal impact statement submitted by STAFF, pp 2 G - Written testimony to HB 3232 submitted by KEUDELL, pp 2 H - Proposed amendments to HB 3232 submitted by BRAUNER, pp 1 I - Written testimony to HB 3064 submitted by LYNCH, pp 1 J - Fiscal impact statement on HB 3231 submitted by STAFF, pp 1 K - Revenue impact statement on HB 3064 submitted by STAFF, pp 1