

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 30, 1991Hearing Room D 8:00 a.m.Tape 77 - 80

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 2915 (WRK) HB 3201 (WRK) HB 3232
(WRK) HB 2652 (WRK) HB 2463 (WRK) HB 2924 (WRK) HB 2770 (WRK) HB 3378
(WRK) HB 3245 (PUB) HB 3073 (PUB) HB 3075 (PUB)

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TAPE 77, SIDE A

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

Roll Call: Representatives Johnson, Bell, Shibley, Sunseri & Repine
answer

WORK SESSION ON HB 2915

010 MOTION: REP. JOHNSON moves that the rules be suspended for the purposes of reconsidering the vote on HB 2915.

VOTE: In a roll call vote the motion carries unanimously. Members absent: Rep. McTeague & Bauman

024 MOTION: REP. JOHNSON moves that the vote by which HB 2915 passed be reconsidered.

JANET MCCOMB, COMMITTEE ADMINISTRATOR: HB 2915 had a prior referral to Ways and Means and that committee isn't interested as there is no fiscal impact.

This should have been referred to the Revenue Committee so we have brought it back to make the correct referral.

040 MCCOMB: We have the wrong bill number.

REP. JOHNSON: I will withdraw all previous motions.

WORK SESSION ON HB 3378

048 MOTION: REP. JOHNSON moves that the rules be suspended for the purposes of reconsidering the vote on HB 3378.

050 VOTE: In a roll call vote the motion carries unanimously. Members absent: REP. McTeague

056 MOTION: REP. JOHNSON moves that the vote by which HB 3378 was sent to the Committee on Ways and Means with a do pass recommendation be reconsidered.

JANET MCCOMB, COMMITTEE ADMINISTRATOR: This bill deals with the public housing authorities not being taxed on properties leased to or leased from private entities.

REP. BAUMAN arrives. (8:06 a.m.)

MCCOMB: The Committee on Revenue and School Finance would like to see this as it does deal with conceivable local impact.

075 VOTE: In a roll call vote the motion carries unanimously. Member absent: Rep. McTeague

077 MOTION: REP. JOHNSON moves that HB 3378 be sent to the Committee on Revenue and School Finance with a do pass recommendation.

081 VOTE: In a roll call vote the motion carries unanimously. Members absent: Rep. McTeague

WORK SESSION ON HB 2915

090 JANET MCCOMB, COMMITTEE ADMINISTRATOR: This bill pertains to increasing the exemption of property taxes for veterans.

It has been suggested that we send this bill to the Committee on Revenue and School Finance with no recommendation.

097 MOTION: REP. SHIBLEY moves HB 2915 to the Committee on Revenue and School Finance with no recommendation as to passage.

105 VOTE: In a roll call vote the motion carries unanimously. Members absent: Rep. McTeague

WORK SESSION ON HB 3232

111 JANET MCCOMB, COMMITTEE ADMINISTRATOR: We have (-1), (-2) & (-3) amendments, (EXHIBIT A).

Describes amendments.

170 CHAIR REPINE: Basically this says that anyone not licensed, performing a task, be it in residential or commercial, would be subject to the stop order.

185 MOTION: REP. SUNSERI moves the adoption of HB 3232 (-3) amendments.

190 VOTE: Hearing no objection the motion carries.

198 MOTION: REP. SUNSERI moves the adoption of HB 3232 (-2) amendments.

REP. SHIBLEY: Line 3 of the (-2) makes reference to line 11 but the (-3) amendments deleted that line.

MCCOMB: We need to strike lines 3 & 4 on the (-2) amendments.

212 REP. SUNSERI: I will accept that as a friendly amendment to my motion.

222 VOTE: Hearing no objection the motion carries.

MOTION: REP. SUNSERI moves HB 3232 as amended to the floor with a do pass recommendation.

228 VOTE: In a roll call vote the motion carries unanimously. Members absent: Rep. McTeague CARRIER: REP. SUNSERI

WORK SESSION ON HB 2924

JANET MCCOMB, COMMITTEE ADMINISTRATOR: This bill eliminates the Landscape Contractors Board and puts them under the Construction Contractors Board.

REP. MCTEAGUE arrives. (8:04 a.m.)

MCCOMB: The (-2) amendments replace the entire bill, the (-3) amendments are from the homebuilders, (EXHIBIT B).

275 REP. TED CALOURI, HOUSE DISTRICT 7: Testifies in support of HB 2924.

In constructing the new board the Landscapers would have someone on the board and they would have a separate advisory committee to deal with technical matters that would report to the board.

305 REP. CALOURI: I understand that there will be an amendment that would add a new position rather than taking a public member off which was the original idea.

336 FRED VANNATTA, OREGON STATE HOME BUILDERS ASSOCIATION: Testifies in support of HB 2924.

This language makes it clear that registrations only becomes invalid upon written notice to the registrant.

399 REP. SHIBLEY: If a contractor is exempt, then hires an employee half way through a project, is the consumer not protected?

VANNATTA: Under current law if a contractor is registered during any portion of the job the bond is good; the people that aren't protected are the consumers who hire the unregistered contractor.

REP. SHIBLEY: What if the exempt contractor hires someone on a contract basis?

VANNATTA: Contracting with someone wouldn't effect their registration.

445 REP. JOHNSON: Should we require that notice also be sent to the people listed in paragraph 3 of ORS 701.225 which sets out mortgage holders, trustees, beneficiaries and people who may have an interest in the real property where work is taking place?

VANNATTA: No; there is no way to know everyone that might be interested in knowing.

495 MOTION: REP. BAUMAN moves HB 2924 (-3) be adopted.

498 VOTE: Hearing no objection the motion carries.

TAPE 78, SIDE A

040 MCCOMB: The (-4) incorporate the (-2) amendments and some other changes suggested from the Contractors Board, (see Exhibit B).

REP. SHIBLEY: Page 3, line 21; what is the landscaper committee?

068 KEN KEUDELL, ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD & LANDSCAPE CONTRACTORS BOARD: It is intended for this committee to serve a technical role, testing for landscape contractors; every landscape contracting business has to have at least one licensed individual.

REP. SHIBLEY: On line 23 of page 3 of the (-4), could we change the word "chairman" to "chair".

KEUDELL: Yes.

090 KEUDELL: On page 10, line 12 change "penalty" to "penalties", I would add "suspensions, revocations, refusals to issue or re-issue or claims".

The committee would then take care of appeals.

133 MOTION: REP. BAUMAN moves the (-4) amendments with the following changes be adopted:

On page 3, line 23 strike the last syllable of the word "chairman".

On page 10, line 1, strike "person" from the word "chairperson".

On line 12, change the sentence to read "appeals on proposed orders for civil penalties, suspensions, revocations, refusals to issue or re-issue or claims".

150 VOTE: In roll call vote the motion carries unanimously.

MOTION: REP. BAUMAN moves HB 2924 as amended to the Committee on Ways and Means.

158 VOTE: In a roll call vote the motion carries unanimously.

WORK SESSION ON HB 2652

170 JANET MCCOMB, COMMITTEE ADMINISTRATOR: This attempts to stop owner builders from selling the house within one year unless there is evidence that they didn't build solely to sell.

We have the (-3) amendments, (EXHIBIT C).

MOTION: REP. BAUMAN moves the (-3) amendments to HB 2652.

VOTE: Hearing no objection the motion carries.

203 MOTION: REP. BAUMAN moves HB 2652 as amended to the floor with a do pass recommendation.

REP. JOHNSON: I don't think that this would catch the first time offender.

I suggest adding, on line 38, before the word "if", "for the purposes of this subsection,".

REP. BAUMAN: The purpose of this is to make sure that this won't kick in until there have been at least 2 or more structures on which work has been preformed within the 3 year period.

REP. JOHNSON: I want it clear that the second sentence refers back to the first.

402 FRED VANNATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: The phrase proposed may make it more clear; I am supportive of it's adoption.

REP. BAUMAN: We will accept that as a friendly amendment.

417 MOTION: In a roll call vote the motion carries unanimously.

CARRIER: REP. SHIBLEY

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

WORK SESSION ON HB 3201 Witnesses: Kim Mingo, Associated General Contractors Steven Kafoury, Oregon Remodelers Association Ken Keudell, Administrator, Construction Contractors Board & Landscape Contractors Board

420 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS: Submits amendments, (EXHIBIT D).

Our concerns are with subcontractors and suppliers having another avenue available to them to file a claim when there are already avenues available.

Our amendments would allow owners to file a claim against a contractor, but not any other parties.

441 MINGO: We feel that there is already a process in place for subcontractors to file liens against the property.

The lien process works well if utilized properly.

TAPE 77, SIDE B

040 STEPHEN KAFOURY, OREGON REMODELERS ASSOCIATION: We don't think that it is a good idea; we think it would be to everyone's advantage to have this option, but in the interest of getting the bill passed we won't oppose this.

REP. BAUMAN: What is the difference between "person" and "owner"?

KAFOURY: This would be limited to the owner of the property and the "person" for example, would be a subcontractor, contractor or a material supplier and they wouldn't be able to take advantage of this new law.

CHAIR REPINE: The full bond isn't accessible to the owners is it?

080 KEN KEUDELL, ADMINISTRATOR, CONSTRUCTION CONTRACTORS BOARD & LANDSCAPE CONTRACTORS BOARD: Under present law the entire \$10,000 would be

available to owner type claimants during the first 90 day period.

If you had an owner claimant and other claimants, the others would file in court, filing their court filing with the CCB and that would set up their priority date and this would not change that.

The CCB doesn't have a definition of "owner"; we use ORS Chapter 87 and we would intend to use that definition if this were to become law.

110 REP. BAUMAN: These have to go to circuit court?

KEUDELL: If this were to pass they would be filed directly with the Board.

REP. BAUMAN: Currently it is taken to Circuit Court, then to the CCB?

KEUDELL: Yes; there are cases when they go to small claims court.

143 REP. SHIBLEY: The increase from \$10,000 to \$25,000 would greatly increase the number of projects that fall under the purview of the Board.

MCCOMB: That accounts for the Ways and Means referral.

REP. BAUMAN: The parties have sat down and come up with a compromise; I'm not sure that the committee can make it better than the requestors have.

REP. BELL: If it increases the work load, will they be increasing their fees?

CHAIR REPINE: This is basically the threshold that causes them to have access; the fees are paid by the contractors who participate in construction.

177 KEUDELL: The fiscal impact indicates that there is an impact, but that is on spending authority and not additional fees.

REP. BELL: The full time mediator would be covered by the fee?

KEUDELL: Yes.

WORK SESSION ON HB 2770

200 JANET MCCOMB, COMMITTEE ADMINISTRATOR: The (-2) amendments are Representative Johnson's amendments, (EXHIBIT E) which primarily remove the written notice requirement.

REP. JOHNSON arrives.

REP. JOHNSON: The bill expanded the definition of the kind of utility company that is prohibited from chasing a landlord for a tenants bill; that definition is in paragraph 3 of the amendments.

Paragraph 1(a) required the landlord to submit notice in writing when renting a unit; I deleted the words "utility company" and inserted "supplier of utility services", defining that in paragraph 3.

280 REP. LIZ VANLEEUEWEN, HOUSE DISTRICT 37: Testifies in support of the bill, with or without amendments.

300 REP. SUNSERI: Line 5 & 6; does that equate to the ability of the utility to lien the property, or does that include transferring the bill of the tenant to the landlords personal bill.

REP. JOHNSON: That suggests that it would be a personal or small claims action; you need authority of some kind to get a lien on personal property.

We can insert "in no circumstances can the landlords property be liened for the tenants bills without a judgement".

REP. SUNSERI: It seems that was the concern.

340 REP. SHIBLEY: Cable TV is included in utilities in my area.

REP. JOHNSON: On line 15, insert "cable service".

CHAIR REPINE: We could say "includes but not limited to"; we will pull this off the schedule today and work the language out.

CHAIR REPINE: Calls a recess. (9:25 a.m.)

405 CHAIR REPINE: Calls the hearing back to order. (9:35 a.m.)

We will work as a subcommittee for the purpose of public hearings. Rep. Repine and Sunseri present.

PUBLIC HEARING ON HB 3245 Witnesses:Lorna Young, Department of Agriculture Wes Lydell, Public Affairs Representative, Pest Control Operators of Oregon

415 JANET MCCOMB, COMMITTEE ADMINISTRATOR: There are two other bills that would take care of this problem, HB 2061 & SB 896 so we will go on the record as hearing this bill, and will bring it back if the other two bills fail.

430 LORNA YOUNG, ASSISTANT DIRECTOR, DEPARTMENT OF AGRICULTURE, FOOD, SAFETY AND PESTICIDE PROGRAMS: We are concerned about the question of liability; the bill doesn't talk to liability of pest control inspection.

The bill doesn't specifically give authority for enforcement to conduct investigations to determine if an individual has complied with the qualification requirements, nor do we have authority for enforcement of unqualified individuals performing pest control inspections.

460 YOUNG: Funding is another concern; the source hasn't been

specified.

REP. SHIBLEY arrives. (9:40 a.m.)

YOUNG: Licensing issuance, renewal or fees aren't addressed in the bill, and we have prepared a financial impact statement for the bill as drafted, (EXHIBIT F), which wouldn't change dramatically if these three points were addressed.

484 CHAIR REPINE: Are you familiar with the other two bills?

YOUNG: I am with SB 896, but not the other bill.

TAPE 78, SIDE B

REP. BAUMAN arrives. (9:42 a.m.)

040 WES LYDELL, PUBLIC AFFAIRS REPRESENTATIVE, PEST CONTROL OPERATORS OF OREGON: Submits proposed amendments, (EXHIBIT G); our objection is that we feel that we are adequately qualified at this time.

We must show financial responsibility under ORS 634 and we agree with that.

070 REP. BAUMAN: Who does pest control now?

LYDELL: This bill is talking about FHA inspections; the FHA head architect in Portland won't recognize anyone unless they are a pest control operator.

We feel that our industry is qualified in that level of wood destroying organisms that we shouldn't be under a different licensing program.

REP. JOHNSON arrives. (9:44 a.m.)

PUBLIC HEARING ON HB 3073 & 3075 Witnesses:Rep. Ron Sunseri, House District 22 Chuck Maylander, Oregon State Tenant Association Genoa Ingram, Oregon Association of Realtors Don Miner, Oregon Manufactured Housing Association Brad Wilder, Oregon Housing Agency Chuck Adams, Affiliated Rental Housing Association Agnas, Court, Manufactured Housing Communities of Oregon, representing: Emily Cedarleaf, Jim Irvine & Fred Vannatta

110 REP. RON SUNSERI, HOUSE DISTRICT 22: Testifies in support of HB 3073 & 307 5 submits amendments and informative material, (EXHIBIT H).

After 18 years of real estate experience, I began to realize the crisis people in mobile homes are facing; there is a housing crisis all over the state of Oregon.

140 REP. SUNSERI: The average price of a manufactured home is much less than a standard house so for many people this kind of housing is essential.

Zoning for mobile home parks is minimal; there is a bill in Environment and Energy that deals with that, so this is part of a package.

165 REP. SUNSERI: HB 3073 deals with a tax credit that allows people to be able to move their mobile homes and receive a tax credit from the state; it is a \$3,000 tax credit, spread over three years.

REP. MCTEAGUE arrives. (9:50 a.m.)

195 REP. SUNSERI: Between 2% & 5% of mobile home owners move their mobile homes, demonstrating that is almost prohibitive for a person to make that investment, hoping for affordable housing, then being unable to move the mobile home.

HB 3075 moves to the need of stabilizing rent; it provides a reduction by 50% in the value of the home for personal property taxes for those over 60 years of age.

There is a fiscal impact statement, (EXHIBIT I), that is for the entire state per biennium; this is an opportunity for us to be able to provide assistance to our senior citizens in being able to stay in their homes.

225 REP. SUNSERI: There are amendments that provide for an income evaluation on both of these bills.

On HB 3073 the tax credit would be for a one time move.

I did submit letters from people who deal with this; there are amendments that were drafted with the assistance of the organizations that deal with this and I would submit that we can create something that will go a long way in helping.

255 REP. MCTEAGUE: On HB 3075, the tax exemption for senior mobile home folks; how do we justify a limited exemption for mobile home seniors when we don't offer other seniors this exemption?

REP. SUNSERI: If a person lives in a conventional home when they reach the age of 55 they have the one time opportunity to sell the home and not pay capital gains tax and people in mobile homes don't enjoy that.

REP. MCTEAGUE: What prevents park owners from raising rents?

REP. SUNSERI: For ten years we haven't controlled rents; this will create competition in the market place.

310 CHUCK MAYLANDER, OREGON STATE TENANT ASSOCIATION: Testifies in support of HB 3073 & 3075.

There are limited spaces for mobile homes, therefore this won't have a tremendous impact on the tax base of the state or counties.

I would caution that the money limits should be talked about; these may be more powerful if the limits were lower.

365 GENOA INGRAM, OREGON ASSOCIATION OF REALTORS: We do support both bills and we appreciate the income limits and the evaluation limits.

This does provide a responsible and viable alternative to rent control, which we do oppose.

CHAIR REPINE: Would this preempt someone from moving from a park facility to a piece of property?

INGRAM: We didn't see that; you may want to address that.

It is the opinion of the OAR that in-fill is a good policy; it may be

possible that a mobile home would have to be brought up to standard.

430 REP. SHIBLEY: HB 3073; if an individual who owns a mobile home moves it and it becomes a rental unit, what happens to the tax credit?

REP. SUNSERI: The tax credit only remains while they are a resident.

460 DON MINER, OREGON MANUFACTURED HOUSING ASSOCIATION: Testifies in support of HB 3073 & 3075.

Mobile homes used to be considered temporary housing that was meant to be moved.

In 1987 the Oregon Legislature prohibited the placement of manufactured home communities in industrial, commercial and high density residential areas.

We view HB 3073 as a way of lessening the burden that these folks will suffer when they are forced to relocate.

TAPE 79, SIDE A

035 MINER: We would suggest clarification in HB 3073; "manufactured dwelling" rather than "mobile home".

In looking at the amendment, it isn't clear that the tax credit would be available to someone that is forced to move because of closure; I think they are eligible, but want that on the record.

REP. SUNSERI: I'm not opposed to adding specific mention to park closures.

060 BRAD WILDER, OREGON HOUSING AGENCY: Testifies in support of HB 3073 & 307 5.

CHAIR REPINE: Will this package assist in addressing problems and concerns you have seen?

WILDER: Yes; we have experienced a number of issues that these bills will go a long way in taking care of.

CHAIR REPINE: Should we mention park closures?

WILDER: Yes, it should be available to those people.

080 CHUCK ADAMS, AFFILIATED RENTAL HOUSING ASSOCIATION: Testifies in support of HB 3073.

Few of our members own mobile home parks, but because of the small number that do we support HB 3073.

098 AGNAS COURT, MANUFACTURED HOUSING COMMUNITIES OF OREGON, EMILY CEDARLEAF, JIM IRVINE AND FRED VANNATTA: Testifies in support of HB 3073 &

307 5.

We do encourage the change from "mobile home" to "manufactured dwelling".

REP. SHIBLEY: Some manufactured dwellings are even less mobile than mobile homes; how broad do we want this tax credit to be?

COURT: "Manufactured dwelling" covers anything built after 1976; basically this tries to give one name to all that were build in the last 20 years.

REP. SHIBLEY: I know people who live in manufactured homes that are "pre-fabricated" houses, not mobile homes.

140 JANET MCCOMB, COMMITTEE ADMINISTRATOR: In the definition of "manufactured dwelling" there are building codes that must be in place so pre-fabricated homes wouldn't fall under this.

Both bills do go to the Committee on Revenue and School Finance.

WORK SESSION ON HB 2463 Witnesses: Ruth Spetter, City of Portland Kim Mingo, Associated General Contractors, (AGC)

170 JANET MCCOMB, COMMITTEE ADMINISTRATOR: Submits and summarizes memo, the

(-4) & the (-5) amendments, (EXHIBIT J).

REP. SUNSERI: We got down to three issues that our group couldn't resolve so we decided to let the committee make the decisions on those.

REP. JOHNSON arrives. (10:20 a.m.)

230 RUTH SPETTER, CITY OF PORTLAND: Submits and summarizes written testimony describing amendments, (EXHIBIT K).

285 KIM MINGO, ASSOCIATED GENERAL CONTRACTORS, (AGC): Line 24 requires the underlying property owner to be responsible for clean up and we don't want that to delay our obligation of the contract.

Whoever does the work can ultimately hold the owner of the property responsible.

320 REP. SHIBLEY: Public agencies, under the AGC preferred amendment, can complete the work themselves; do you see that permission being granted in sub (b) beginning on line 21?

MINGO: I see that as caused the work to be completed by the public contracting agency, so they could use their own forces to do the clean up, or contract out without going through the competitive bidding process.

We would like the contractor to be required to go through the competitive bid process.

450 MOTION: REP. SHIBLEY moves the (-5) amendments page 1, line 19 through line 3 on page 2 be adopted.

VOTE: In a roll call vote the motion carries. Members voting no: Rep. Johnson

TAPE 80, SIDE A

040 MOTION: REP. BELL moves that on page 2 of the (-5), after

"services" on line 3, insert "under the bid requirements of this chapter", picking up with the word "or".

REP. SHIBLEY: What would that mean for public agencies, different from leaving it out?

SPETTER: We would have to go out to bid and we are already required to do so.

063 VOTE: Hearing no objection the motion carries.

REP. BELL: I'm not clear about the arguments regarding "E" on the (-5) amendments.

MINGO: The work can be completed by the public agency, through other forces or through a change order through the original contractor; we feel this option would allow the owner of the property to determine how they want to preform the clean up work and we feel that it should be done under the control of the public agency.

REP. BELL: Should be say the underlying property owner will be "ultimately responsible"?

SPETTER: My one concern is that it is much more difficult to go after someone when money has already been spent that they may not have considered necessary.

Many other statutes come into play, this means that we could draw in the owner immediately; it wouldn't be our intention to hold the contractor hostage.

105 MOTION: REP. JOHNSON moves that the paragraph 7, page 3, line 19 - 22 of the (-4) replace paragraph 7, page 3, lines 13 - 21 of the (-5) amendments.

REP. SHIBLEY: I see that provided for in the (-5) as well; it makes sense that when there is a contract that is signed that provides for termination by either party, the contract should be the first thing that determines the rules of separation.

CHAIR REPINE: In the (-4) we refer to "overhead and profit" and the (-5) says overhead and "reasonable profit".

REP: JOHNSON: The AGC proposal would entitled them to profits they thought they would get and the public agency proposal would pay the contractor for the work done.

170 SPETTER: During the discussion of termination possibilities the AGC insisted on language that was different than what would be on the underlying contract.

It was our position that this wasn't the bill to deal with that so we proposed language that said that when there is a contract with a termination clause, that will be followed for termination, but if there is no termination clause, we went with the language of the AGC entirely.

MINGO: We don't agree with the termination clauses; there are currently 170 0 public bodies with different contracts in Oregon.

REP. MCTEAGUE leaves. (10:50 a.m.)

232 REP. BELL: Can't the clause be arbitrated by the Contractors Board on a case by case basis?

REP. SHIBLEY: A contract is a contract; it seems presumptuous of the legislature to override those contracts.

REP. BELL: I don't believe that the contractors can walk away from contracts and I won't feel comfortable unless the contractor has an appeal process when terminated.

REP. SUNSERI: Often contractors bid on a whole project and some stages are profitable while other cost more; my concern is who will determine "reasonable profits"?

REP. SHIBLEY: It could be that the profit is made initially; who knows where profit is made, accept on a case by case basis.

370 VOTE: In a roll call the motion carries. Members voting no: McTeague & Shibley Members excused: Bauman

REP. JOHNSON: On the (-5) amendments, we should insert, "under the competitive bidding requirements of this section" for conformity.

MOTION: REP. JOHNSON moves that "under the competitive bidding requirements of this chapter".

REP. JOHNSON: Withdraws motion.

444 MOTION: REP. SHIBLEY moves that on the (-5) amendments, lines 4 - 10 be adopted.

474 VOTE: Hearing no objection the motion carries.

477 MOTION: REP. JOHNSON moves that on page 3, line 10, after the word "services", insert "under the bidding requirements of this chapter".

488 VOTE: Hearing no objection the motion carries.

TAPE 79, SIDE B

035 SPETTER: There was concern about the impact on the existing contractor if a new contractor were hired.

From our viewpoint it is unconstitutional as there is a constitutional section, article 11, section 9, which prohibits public bodies from lending their credit to private corporations and this has been interpreted to include indemnification agreements.

MINGO: We are trying not to hold the original contractor responsible for the quality of the work if another contractor is used.

REP. BAUMAN arrives (11:05 a.m.)

REP. SHIBLEY: If indemnification is unconstitutional what is between not being held liable and indemnity?

MINGO: We think that it should go further and include any other liabilities that the second contractor may incur as a result of working on that particular project.

075 REP. SHIBLEY: Could we say "not held liable for actions of the other contractor"?

MINGO: We would agree to that.

SPETTER: That sounds fine but I don't think that a surety for one contractor is going to be liable for another contractor; not holding the original contractor responsible for actions of the second contractor is probably fine.

105 MOTION: REP. SHIBLEY moves that (-5) amendments on lines 25 & 26 of page 3 to be amended to read "a successful bidder shall not be held liable for actions or in-actions of the second contractor".

SPETTER: The proposed amendment would only be true assuming that the first contractor wasn't responsible.

REP. SHIBLEY: The word is "omissions", not "in-actions".

130 VOTE: Hearing no objection the motion carries.

135 MOTION: REP. JOHNSON moves the deletion of sub 8, lines 5 - 7 of the (-5) amendments.

SPETTER: There are occasions where public contracting agencies need to know ahead of time what the project will cost.

REP. BAUMAN: This will be negotiated in the price of the contract; you want the option of paying a certain price to be rid of the risk?

SPETTER: Yes.

180 REP. BELL: What if it said that this may be negotiated?

REP. BAUMAN: Are there non negotiable elements in public contracts?

SPETTER: Not by statute; there are standard construction specifications that are generally amended per project.

200 MINGO: We feel that this would be abused and would end up as boiler plate language in contracts.

REP. SHIBLEY: If this were now part of statute, would bidders know that they were getting in to this before hand and build this into their bid prices?

MINGO: It is my understanding that this would be contained within the public contract, they aren't required to put this in the public bid advertisement, so if the contract isn't contained within the bid documents, the contractor wouldn't be aware.

230 VOTE: In a roll call vote the motion carries. Members voting no: McTeague, Shibley & Bauman

238 MOTION: REP. SUNSERI moves HB 2463 as amended to the floor with a do pass recommendation.

VOTE: In a roll call vote the motion carries. Members voting no: McTeague & Bauman

REP. BAUMAN: I will serve notice of a possible minority report.

REP. MCTEAGUE: I will also serve notice of a possible minority report.

252 CHAIR REPINE: I will serve notice of possible reconsideration.

We are adjourned. (11:20 a.m.)

Submitted by: Reviewed by:

Kimberly Burt Janet McComb Assistant Administrator

EXHIBIT SUMMARY:

A - HB 3232 (-1), (-2) & (-3) amendments submitted by staff, pp 3 B - HB 2924 (-4) amendments submitted by staff, pp 44 C - HB 2652 (-3) amendments submitted by staff, pp 1 D - HB 3201 proposed amendments submitted by MINGO, pp 1 E - HB 2770 (-2) amendments submitted by staff, pp 1 F - HB 3245 fiscal impact statement & written testimony submitted by YOUNG, pp 2 G - HB 3245 (-1) amendments submitted by LYDELL, pp 1 H - HB 3073 & 3075 amendments and informative material submitted by REP. SUNSERI, pp 12 I - HB 3073 & 3075 SMS, fiscal & revenue impact statements submitted by staff, pp 6 J - HB 2463 (-4) & (-5) amendments submitted by staff, pp 8 K - HB 2463 written testimony submitted by SPETTER, pp 2 L - HB 3245 legislative fiscal impact statement submitted by staff, pp 1