

CONFERENCE COMMITTEE ON HB 2491

June 18 - 19, 1997 Hearing Room 343

12:45 P.M. Tapes 1 - 2

MEMBERS PRESENT:

Rep. Ken Strobeck, Chair

Sen. Kate Brown

Sen. Randy Leonard

Sen. David Nelson

Rep. Kurt Schrader

Rep. John Watt

MEMBER EXCUSED:

STAFF PRESENT:

David Amesbury, Counsel

Gina Cross, Administrative Support

MEASURE/ISSUES HEARD:

HB 2491 Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
Tape 1, A		
004	Chair Strobeck	Opens the meeting at 12:50 p.m.
<u>HB 2491 - WORK SESSION</u>		
009	Chair Strobeck	Opens the work session on HB 2491. >resolving the issue about the Senate amendments >purpose of the meeting

013	Sen. Leonard	Discusses the purposes of the Senate amendments. It is a clarifying, technical amendment. Union members are fair share members. The union must fairly represent members.
034	Rep. Watt	The intent by my constituent is to keep her privacy. I don't know if she is a fair share or a union member or not. The Senate amendments don't need to be in the bill if it is already law.
047	Sen. Brown	Case law surrounding this issue requires that this information be provided to the unions. This isn't in statute. This bill may override case law.
059	Rep. Watt	If this was necessary, why wasn't a piece of legislation dropped, so it could be discussed on its merits alone? Why is it being put into this bill?
063	Sen. Brown	Until your bill was raised, it wasn't an issue.
070	Chair Strobeck	The union already has their addresses. The agencies are pleased to distribute needed information at the job site. We were told that it isn't necessary to specifically exempt unions from this provision, because they already have access to the addresses.
083	Sen. Leonard	It is clear that Rep. Watt wants to preclude the unions from this information.
093	Rep. Watt	The intent is to protect privacy in the home. The issue of the union was not indicated by my constituent.
111	Sen. Leonard	This bill does that with the amendments. The legal implications require that the unions have the ability to communicate with its members.
115	Rep. Watt	As long as the union knows where the person works, it has the capability to communicate with the member.
119	Rep. Schrader	Are there other avenues for the union to contact the fair share members besides the personnel records?
123	Sen. Leonard	No. Sometimes work rules prohibit the union from contacting the member at work. As the president of the firefighters association, I can't contact members while they are at work.
130	Rep. Schrader	There is no other way you can contact your members?
131	Sen. Leonard	If you don't have their name or address, there is no other way. We have been told that, even without the amendment, this can occur anyway.
137	Rep. Schrader	Is there an existing portion of the statute that delineates this?
138	Sen. Leonard	No. Case law has been interpreted to say that unions have the ability to communicate with fair share members through other means than the workplace.
142	Chair Strobeck	If you want to talk with a private employer about who works there, you can't do it. We are trying to make those same protections available to public employees.
150	Sen. Leonard	The exception is private unions have access to fair share members.
	Rep.	Can we include amendments which would not interfere with what Sen.

157	Schrader	Leonard is saying, but it also wouldn't cloud the issue?
164	Chair Strobeck	I am not convinced that there is no way a union is going to be able to communicate with its members. I don't think that by passing this law we are saying that no fair share members can communicate.
171	Sen. Leonard	The unions can get the information for the purposes of collective bargaining. The unions have an obligation to the fair share members.
183	Rep. Watt	I think that you are trying to put words in my constituent's mouth. The purpose of this bill is to allow privacy for public employees while they're at home. This amendment takes that privacy away.
196	Sen. Brown	There is no other statutory protection available.
200	Rep. Watt	That federal law has not been presented in testimony.
205	Chair Strobeck	Refers to the disclosure of employee records. An employer must disclose information unless it is prohibited by another statute.
219	Sen. Brown	This is a declamatory ruling. This statute will overrule this ruling.
226	Chair Strobeck	Refers to subsection C of the Senate amendment, the exemption will allow for anyone to go to the employer and get records if it is in the "public's interest."
235	Sen. Leonard	I don't recall where that came from.
237	Chair Strobeck	I suggest we recess and get this reworked.
246	Rep. George Eighmey	State Representative, House District 14 >scope of the issues and amendments >access to employee records >HB 2865 deals with employers falsifying records and the access to employee records. >HB 2865 as conceptual amendments (EXHIBIT A)
285	Sen. Brown	What was the vote count in the House?
286	Rep. Eighmey	It was thirty-three to twenty-two.
287	Chair Strobeck	There are some issues surrounding the relating clause of HB 2491.
288	Dave Amesbury	I contacted LC about this. It is LC's opinion that HB 2865 will not fit into the relating clause of HB 2491.
306	Rep. Eighmey	I contacted Tom Clifford. It is his opinion that it is in the gray area. My argument about the scope between the House and Senate is that it stretches things a bit, but it does fit.
324	Rep. Watt	Do you believe that if subsection C is deleted, your request would not fit into HB 2491.

331	Rep. Eighmey	This committee has the authority to propose any amendments within the scope of the issue. When the Senate added their amendments, the relating clause was broadened.
350	Chair Strobeck	Did you mention that HB 2865 deals with all employees and not just public employees?
353	Rep. Eighmey	Yes. I am not denying that this is on the outer edges of the relating clause.
361	Rep. Watt	I indicated to Rep. Eighmey that he give this his best shot. Several others came to me with the same ideas. I then went back to Rep. Eighmey and asked him not to do this. I would request that we return the bill to its original form.
381	Rep. Eighmey	I do appreciate Rep. Watt's comments. It was a difficult decision to do this. I then went to Associated Oregon Industries (AOI) and Bureau of Labor and Industries (BOLI) to make sure that it is acceptable. I wanted to make sure that the addition of HB 2865 to HB 2491 would not cause any disputes.
395	Chair Strobeck	I would respect the wishes of the original sponsor of the bill. If there is no further discussion I will recess the meeting.
405	Sen. Leonard	Maybe we can get Rep. Watt's constituent down here.
407	Chair Strobeck	The intent was to clarify the issues and know what the boundaries are in relation to the unions.
415	Chair Strobeck	Recesses the meeting on June 18, 1997, at 1:20 p.m.
416	Chair Strobeck	Reopens the meeting on June 19, 1997, at 12:54 p.m.
418	Chair Strobeck	We have the -B12 amendments in front of us (EXHIBIT B). These were drafted after we recessed yesterday.
424	Sen. Brown	This narrows current law substantially. Offers conceptual amendments by amending -B12 amendments.
434	Rep. Watt	I don't have a problem with that.
438	Chair Strobeck	We wanted to talk about those employees who are already covered. We wanted clarification about communication for collective bargaining and elections.
452	Rep. Watt	Legislative Counsel (LC) had to have a reason for doing what they did with the amendments. I would be interested to know why they worded the amendment this way.
Tape 2, A		
005	Dave Amesbury	I understand that it was the intention for fair share members to be reached by union representatives. Information can be released if the union members are covered by collective bargaining whether they are fair share members or not. There is no intention for release of information for the purposes of organizing memberships of unions.

022	Rep. Watt	I appreciate what has been done on this. I don't have a problem with the language.
027	Chair Strobeck	Are we still having a problem with the printed amendment?
029	Sen. Brown	Yes. This narrows the law. Why do we need to clarify current law?
038	Rep. Watt	I don't have a problem with finding out why we need to do that. Have we had any discussion with those who represent unions?
046	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME) >We suggested the shorter version of the language for the amendment. >By law, we are required to contact fair share members at least once a year.
062	Chair Strobeck	Is there anything in the section which gives you any idea that you could be requesting information for the purposes of organizing?
065	Botkin	You have to do a lot of different things before you can get a list from an employer in order to organize.
068	Chair Strobeck	Is that a no?
069	Botkin	It is an "I'm not sure."
069	Lynn Marie Krieder	Oregon Public Employees Union (OPEU) >We now have the right to names and addresses for the purposes of organizing. >In order to get these names, however, there needs to be thirty percent of employee support for organization.
080	Rep. Watt	My constituent works in a shop that isn't represented at this time. One of the reasons for this legislation is so employees can't be contacted for the purpose of union organizing. It is assumed that the union already has the information when there is such needed support.
097	Tricia Smith	Oregon School Employees Association (OSEA) >The labor organization doesn't get the names and addresses from the employer until there is a thirty percent support.
100	Rep. Watt	I said it was assumed that the labor organization already had that information. The interest is in making sure that lines 10-12 of -B12 amendments, are kept.
110	Smith	We oppose using a bill which our members hope passes. We don't believe that intent should be used to limit our legal rights in collective bargaining.
125	Chair	Through some other means, you find thirty percent of the people want to organize. This entitles you to get the names and addresses from the

	Strobeck	employer?
130	Smith	When thirty percent of school employees decide they want to have an election to decide if they will be represented, we are given names and addresses.
142	Sen. Brown	What is the specific statutory reference under ORS 243?
143	Krieder	There is no specific reference. It is the policy of the Employee Relations Board (ERB).
147	Rep. Watt	I understand that the intent of this legislation is to protect the rights of the public employees when it came to union organizing or elections of its officers.
159	Sen. Leonard	I am trying to understand this.
160	Rep. Watt	You agreed the concept of the bill was to protect the public employees' privacy even when it came to union organization or elections.
169	Sen. Leonard	The current state of the law should not be diminished by HB 2491. The intent of my amendment was to maintain the status quo.
187	Rep. Watt	I don't have a problem with Sen. Brown's amendment. Unless we can have LC to explain why all the wording is necessary, I think that subsection C needs to be added to the bill to clarify what can happen.
194	Chair Strobeck	What is your position regarding that suggestion?
199	Brown	It does not impact current case law under our interpretations. I don't know the case law, so I guess I am not sure.
205	Chair Strobeck	We have heard testimony which stated that the thirty percent isn't in ORS 243.
208	Sen. Leonard	The thirty percent is in ORS 243. What I understand is that she is asking about the employers releasing the information. That isn't in there, but it is inferred.
213	Chair Strobeck	So subsection C applies until there is thirty percent of the employees who want an organized union? Once those employees sign a card, the employer is obligated to give the addresses out.
220	Kreider	If you simply put a period after Sen. Brown's conceptual, that would preserve current law. If you include subsection c, lines 10-12, then you cut back ERB's policy.
231	Chair	Right now you have the right to ask anyone for names and addresses?
234	Krieder	Yes.
234	Chair Strobeck	If we pass the -B12 amendments with conceptual, you would not be able to get home addresses until you had thirty percent of employees indicating interest in holding an election?
239	Krieder	Yes.
240	Committee	Discusses the amendments with conceptual.
		In the -B12 amendments, nothing we are doing relieves the employer

278	Chair Strobeck	under ORS 243. 650 to 243.782. When we are talking about organizing a labor union, does that section already cover the threshold of getting thirty percent for the purpose of holding an election?
299	Chuck Wilson	Legislative Counsel (LC) >I am not quite sure how to answer that question. >The language of the amendment is intended to be broad enough to cover duty of labor matters.
308	Chair Strobeck	Does subsection c conflict with ORS 243.682?
318	Wilson	It might be.
321	Watt	I am not clear as to subsection b. Is the language after ORS 243.782 important? Can it be deleted? Sen. Brown thinks that it is too narrow. Is the language sufficient up to the citation?
338	Wilson	If you put a period after the citation, you are talking about the duties a public employer may have which is broad. You can do that if you wish.
353	Rep. Schrader	What is the downside if we do it that way?
355	Wilson	You will probably have to ask someone who has more experience with collective bargaining.
368	Chair Strobeck	We don't have time to work on this some more. We either have to do something now or let it go.
370	Sen. Brown	MOTION: Moves to AMEND HB 2491B on page 1, by deleting lines 22-24, and on page 1, in line 22, insert "Nothing in this subsection exempting employee records from disclosure relieves a public employer of any duty under ORS 243.650 to 243.782; or".
382	Rep. Watt	Where are we?
382	Sen. Brown	Goes through her amendment again.
387	Rep. Watt	Are you excluding the existing subsection b or are you inserting it?
389	Sen. Brown	Explains her amendment again.
400	Chair Strobeck	Did you make in the form of a motion?
401	Sen. Brown	Yes.
402	Chair Strobeck	Repeats Sen. Brown's amendments.
417	Rep. Watt	I will vote in favor of this motion providing the intent is to protect public employee's right to privacy even when there is an organizing attempt. I understand that we are being cognizant of existing labor laws and being careful not to have a conflict.
Tape 1, B		
	Rep.	I have a problem with this. It keeps subsection c in the bill. Broadening

010	Schrader	the scope of the bill may have unintended consequences for the business community.
013	Chair Strobeck	What do you mean by the business community's rights?
013	Rep. Schrader	According to Mr. Wilson, we are getting into an area that would open up things the wrong way when we start playing around with these sections of ORS.
020	Sen. Brown	If a situation should arise, the current statute would apply. This would not affect the business community's rights.
023	Chair Strobeck	We are talking about the home addresses of public employees. I am not sure that the business community has the right to get addresses of public employees.
028	Rep. Schrader	My concern is that by giving this blanket relief, we could be causing more problems.
032	Chair Strobeck	All we are doing is saying that what we are doing in this bill will not preempt what is currently law.
037	Chair Strobeck	Is there any further discussion on the amendment?
038	Sen. Brown	I believe that LC has a technical amendment.
041	Chair Strobeck	Are there any objections?
042	Rep. Schrader	Can we eliminate subsection c?
042	Chair Strobeck	Do you mean subsection c?
043	Chair Strobeck	Explains what the conceptual are.
047		VOTE: 5-0-1 EXCUSED: 1 - Leonard
048	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
048	Chair Strobeck	I need a motion regarding the B-engrossed version as amended.
049	Rep. Watt	MOTION: Moves HB 2491B to the floor with the recommendation that the House concur in Senate amendments dated 6/6/97 and that the bill be further amended by Sen. Brown's conceptual and the measure be repassed.
050	Chair Strobeck	Repeats Rep. Watt's motion. Is there any further discussion?
054	Rep.	MOTION: Moves to AMEND HB 2491B by changing "'the duty' to

	Strobeck	'any duty''.
		VOTE: 5-0-1 EXCUSED: 1 - Leonard
057	Chair Strobeck	Hearing no objection, declares the motion CARRIED.
058	Chair Strobeck	The motion is to move the bill.
058		VOTE: 5-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Leonard
063	Chair Strobeck	The motion CARRIES. REP. WATT AND SEN. BROWN will lead discussion on the floor.
065	Chair Strobeck	Adjourns the meeting on June 19, 1997, at 1:35 p.m.

Submitted By, Reviewed By,

Gina Cross, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2491, written materials, Rep. George Eighmey, 2 pp.

B - HB 2491, -B10 proposed amendments (dated 6/18/97), Rep. George Eighmey, 2 pp.

C - HB 2491, -B12 proposed amendments (dated 6/19/97), staff, 1 p.

D - HB 2491, written materials, staff, 3 pp.