

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

February 28, 2005 Hearing Room B

8:30 A.M. Tapes 42 - 43

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Mike Schaufler, Vice-Chair

Rep. Paul Holvey

Rep. George Gilman

Rep. Derrick Kitts

Rep. Chip Shields

MEMBER EXCUSED: Rep. Sal Esquivel, Vice-Chair

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2124 – Public Hearing

HB 2126 – Public Hearing and Work Session

HB 2463 – Public Hearing

Introduction of Committee Measures – 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 42, A

003 Chair Brown Calls meeting to order at 8:39 a.m. Opens the public hearing on HB 2124.

HB 2124 – PUBLIC HEARING

006 Janet Adkins Committee Administrator. Explains HB 2124 and the -1 amendments **(EXHIBIT B)**.

027 Renee Bryant Manager, Unemployment Insurance Division, Employment Department (ED). Submits written testimony in support of HB 2124 **(EXHIBIT A)**. States that HB 2124 will bring the Unemployment Insurance (UI) tax rate into compliance with federal regulations. Explains the exemption Oregon businesses receive when Oregon is in compliance with federal regulations. Talks about HR 3463 (2004) which was passed by the US Congress and how this affects UI regulations. Discusses employer's manipulation of the tax rate for UI.

072 Bryant Details how the UI tax manipulation affects small businesses the most. Summarizes changes that need to be made to comply with federal law **(EXHIBIT A, Pages 1 and 2)**. Shares that the changes include a new law to close the loophole for tax rate manipulation, civil and criminal penalties for tax manipulation, and civil penalties for people who advise tax manipulation.

138 Bryant Talks about the period of amnesty for employers that voluntarily come forward and admit to tax rate manipulation **(EXHIBIT A, Page 2)**. Talks about concerns that a leasing companies could have with the application of the bill and states that ED has no intention of treating the leasing of employers as falling under the jurisdiction of HB 2124. States that ED is looking at how tracking should occur in terms of leasing companies. Explains that the -1 amendments are for clarification purposes and that they change the effective date of HB 2124 **(EXHIBIT B)**.

196 Chair Brown

Asks what the federal government will do if the changes are not made to current state law.

- 198 Bryant Says that the federal government will commence a decertification process for the state of Oregon. Notes that the states would lose \$100 million in administrative fees for the ED and Oregon employees would have to pay the full Federal Unemployment Tax Act (FUTA) rate which is 6.2 percent.
- 198 Chair Brown Asks if his accountant told him to establish a new business to lower his UI tax then he and the accountant would face charges.
- 201 Bryant States that is a potential scenario of HB 2124 and advises people to have their accountants call the UI tax section.
- 204 Rep. Schaufler Speaks in support of HB 2124. Asks if an honest person has an accountant that tells a person to do it and they are in violation of the law. Asks if the resources exist to enforce the law.
- 216 Bryant States that there are over 40 auditors in the field for over 105,000 employers so their resources are stretched. Explains how people in the industry regulate each other. Expresses that she wants to put employers on the right track and help them work under the UI tax system correctly. Details how they will work with those employers.
- 242 Rep. Holvey Asks about temporary agencies or labor brokers and how they treat the experience rate for those organizations.
- 249 Bryant Says that they have tried to figure out what the current tax rate is correctly with those companies. Talks about companies that have set up shell corporations and then transferred their payroll to the new company.
- 273 Rep. Holvey Asks about the difference between the rates of construction workers and office workers and if the rates are combined.
- 280 Bryant Says that yes the rates of employees are combined if they are under the same management.
- 288 Chair Brown Asks if there is a fiscal impact of HB 2124.
- 290 Bryant

Submits fiscal statement and says that the fiscal impact would be zero **(EXHIBIT C)**. States that it is unclear how much additional revenue the ED will receive. Says that they have identified \$12 million in manipulated taxes. Mentions that it could translate to \$700,000 more in revenue each year and states that it could be less because the taxes may not be collectible.

- 322 Tom Barrows National Association of Professional Employer Associations. Speaks in support of the -1 amendments **(EXHIBIT B)**. Mentions that the ED has been very helpful and understanding.
- 344 Chair Brown Closes the public hearing on HB 2124 and opens the public hearing on HB 2126.

HB 2126 – PUBLIC HEARING

- 348 Janet Adkins Committee Administrator. Explains HB 2126. States that section three of HB 2126 is being rewritten.
- 382 Tom Byerly Assistant Director, Unemployment Insurance (UI) Division, Employment Department (ED). Submits written testimony in support of HB 2126 **(EXHIBIT D)**. Talks about the customer service aspect of HB 2126 and how it will clarify issues surrounding the collection of overpayment by the ED. Explains the confusion that people have and how many times they do not file an appeal in time. Says that HB 2126 would require the statement that they may be ineligible for benefits to be issued with the statement of how much the individual may owe the state.

TAPE 43, A

- 001 Byerly Explains how the appeals process will be streamlined for the UI Division. Says that they will save 30 days by combining decisions and this will help improve customer service
- 014 Chair Brown Asks what the time frame a person has to appeal the decision.
- 017 Byerly States that they have 20 days to appeal the decision. Notes that if the appeal goes to a hearing the person can appeal the decision within 30 days.
- 026 Chair Brown Closes the public hearing on HB 2126 and opens the work session on HB 2126.

HB 2126 – WORK SESSION

- 029 Rep. Kitts **MOTION: Moves HB 2126 to the floor with a DO PASS recommendation.**
- 033 **VOTE: 6-0-1**
- AYE: In a roll call vote, all members present vote Aye.**
- EXCUSED: 1 – Esquivel**
- Chair Brown The motion CARRIES.**
- REP. KITTS will lead discussion on the floor.**
- 042 Chair Brown Closes the work session on HB 2126 and opens the public hearing on HB 2463.

HB 2463 – PUBLIC HEARING

- 045 Janet Adkins Committee Administrator. Explains HB 2463. Mentions that it is Rep. Schaufler’s bill.
- 057 Rep. Schaufler House District 48. Speaks in support of HB 2463. Talks about how it would exempt Unemployment Insurance recipients from having to pay taxes on these benefits. Says that it will help the poorest workers in Oregon and would directly benefit the economy because of workers’ increased purchasing power. Submits a chart and discusses how many tax returns would be affected at various income levels **(EXHIBIT E)**. Wants to eventually phase out taxing UI benefits.
- 094 Rep. Schaufler Says that California and Alabama do not tax UI benefits and residents of Wisconsin do not have to pay tax on their UI benefits if they make \$12,000 or less a year. States that HB 2463 will help the economy immediately.
- 104 Chair Brown Asks what the federal poverty level is and what the current unemployment rate was.
- 106 Bob Shiprack Executive Secretary, Oregon Building Trades Council. States that it depends on family size.

108	Rep. Schaufler	Says that he heard that the report was going to be out today. Reiterates that families should not be taxed during difficult times.
116	Shiprack	Speaks in support of HB 2463. Says that many of his affiliates were devastated by the recession. States that it is unfair that these benefits are taxed. Explains that UI benefits are a tax that people and employers have already paid for.
153	Shiprack	Says that UI is used to stabilize communities. Notes that the money from UI benefits would go directly into the communities. Emphasizes that UI benefits help rural communities. States that US Senator Smith and US Senator Wyden are interested in HB 2463.
187	Rep. Schaufler	Says that there are concerns about the relating clause. States that the intention is just to help working people.
196	Chair Brown	Asks where he would like the cutoff to be.
195	Rep. Schaufler	Says that he would like to see the cutoff limit be as high as possible.
216	Rep. Holvey	Asks about the threshold of where the cutoff will be and if they are leaving it up to the Revenue Committee.
222	Rep. Schaufler	Talks about how people with a wide range of income levels have received UI benefits and how he would like to see the tax on the benefits stop completely. States that at this point he will leave it up to the Revenue Committee.
240	Shiprack	Says that the numbers that Rep. Schaufler has are from 2003. Says that the chart is the worse case scenario, because 2003 was when the state paid out the most UI benefits in its history.
253	Rep. Kitts	Speaks in support of HB 2463. Thanks Rep. Schaufler for bringing it forward and notes that lower taxes do stimulate the economy.
270	Chair Brown	Speaks in support of HB 2463. Commends Rep. Schaufler for bringing it forward.
277	Shiprack	Believes that in the early 1980s the Congress began taxing UI benefits and Oregon adopted that practice. Asks that Oregon disconnect from the federal practice.

- 280 Chair Brown Asks what states have an income tax and do not tax UI benefits.
- 285 Rep. Schaufler States that California and Alabama are exempt and Wisconsin has a threshold of \$12,000.
- 289 Chair Brown Closes the public hearing on HB 2463. Opens the work session for the purpose of introducing committee measures.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

- 306 Chair Brown Introduces LC 2404 (**EXHIBIT F**).
- 308 Rep. Kitts MOTION: Moves LC 2404 BE INTRODUCED as a committee bill.**
- 312 VOTE: 6-0-1**
- EXCUSED: 1 – Esquivel**
- Chair Brown Hearing no objection, declares the motion CARRIED.**
- 310 Adkins Mentions the meeting in Portland.
- 339 Chair Brown Closes the work session for the purpose of introducing committee measures. Adjourns the meeting at 9:30 a.m.

EXHIBIT SUMMARY

- A. **HB 2124, written testimony, Renee Bryant, 3 pp**
- B. **HB 2124, -1 amendments, staff, 1 p**
- C. **HB 2124, fiscal statement, Renee Bryant, 3 pp**
- D. **HB 2126, written testimony, Tom Byerly, 2 pp**
- E. **HB 2463, chart, Rep. Schaufler, 1 p**
- F. **Introductions, LC 2404, staff, 1 p**