

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

June 01, 2005 Hearing Room B

8:00 A.M. Tapes 150 - 152

Corrected 10/03/05

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Sal Esquivel, Vice-Chair

Rep. Mike Schaufler, Vice-Chair

Rep. Paul Holvey

Rep. George Gilman

Rep. Derrick Kitts

Rep. Chip Shields

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3456 – Public Hearing

SB 15 – Work Session

SB 118A – Public Hearing

SB 585A – Public Hearing and Work Session

SB 323 – Work Session

SB 638 – Public Hearing

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 150, A

003 Chair Brown Calls the meeting to order at 8:10 a.m. Opens the public hearing on HB 3456.

HB 3456 – PUBLIC HEARING

007 Janet Adkins Committee Administrator. Explains HB 3456.

013 Scott Gallant Oregon Medical Association. Speaks in support of HB 3456. Introduces other panelists.

025 Paul Meunier Oregon Medical Association. Submits and reads written testimony in support of HB 3456 (**EXHIBIT A**). Explains how preferred provider status works when relating to insurance payments. Talks about the panel of preferred providers.

078 Meunier Talks about his termination from a major medical panel and how this is detrimental to his patients because it took away their ability to choose whom they wanted to see. Reads quote from a resolution that was approved by the Oregon Medical Association opposing “medical credentialing”.

121 Mike Crew General Counsel, Oregon Medical Association. Talks about the establishment of preferred providers in the medical insurance industry. States patients are paying a penalty if their physician or medical care provider is not on the health plan. Says that HB 3456 will not affect the quality of physicians.

176 Crew Says that many parts of the state do not have adequate physician panels. Mentions an example in Medford. Believes that economic credentialing increases insurance companies' profits.

208 John Powell Regency Blue Cross Blue Shield. Says that HB 3456 is written too broadly and speaks in opposition to HB 3456. Indicates that HB 3456

would undermine insurance companies ability to negotiate with physicians.

- 227 Rep. Schaufler Asks for justification for why when the physician's rates were increased when he was terminated and why the co-pay was doubled.
- 234 Powell States that the particular incident did not involve Regency Blue Cross Blue Shield.
- 241 Chair Brown Closes the public hearing on HB 3456 and opens the work session on SB 15 for the purpose of reconsidering the vote.

SB 15 – RECONSIDERATION AND WORK SESSION

- 245 Rep. Esquivel **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering SB 15.**
- 247 **VOTE: 6-0-1**
EXCUSED: 1 - Kitts
- Chair Brown **Hearing no objection, declares the motion CARRIED.**
- 250 Rep. Schaufler **MOTION: Moves to RECONSIDER the vote by which SB 15 was moved to the floor with a DO PASS AS AMENDED recommendation.**
- 252 **VOTE: 6-0-1**
EXCUSED: 1 - Kitts
- Chair Brown **Hearing no objection, declares the motion CARRIED and opens a work session on SB 15.**
- 271 Chair Brown Submits the -2 amendments (**EXHIBIT B**).
- 270 Rep. Schaufler **MOTION: Moves to ADOPT SB 15-2 amendments dated 05/17/05.**
- 278 **VOTE: 6-0-1**

EXCUSED: 1 - Kitts

Chair Brown **Hearing no objection, declares the motion CARRIED.**

281 **Rep. Schaufler** **MOTION: Moves SB 15 to the floor with a DO PASS AS AMENDED recommendation.**

284 **VOTE: 6-0-1**

AYE: **In a roll call vote, all members present vote Aye.**

EXCUSED: 1 – Kitts

(NOTE: Please see tape 150, A, page 5, of this tape log for Rep. Kitts' vote.)

Chair Brown **The motion CARRIES.**

390 **Rep. Gilman** **MOTION: Moves SB 15, as amended, be placed on the CONSENT CALENDAR.**

398 **VOTE: 6-0-1**

EXCUSED: 1 – Kitts

(NOTE: Please see tape 150, A, page 5, of this tape log for Rep. Kitts' vote. Rep. Holvey assigned as the carrier of SB 15 on page 5.)

Chair Brown **Hearing no objection, declares the motion CARRIED.**

300 **Chair Brown** **Closes the work session on SB 15. Opens the public hearing on SB 118A.**

SB 118A – PUBLIC HEARING

306 **Janet Adkins** **Committee Administrator. Explains SB 118A. Submits the –A6 amendments (EXHIBIT D).**

340 **Joel Ario** **Insurance Division Administrator, Department of Consumer and Business Services (DCBS). Submits written testimony in support of SB 118A (EXHIBIT C). Mentions that they have the support of everyone that has been contacted. Says that it gives consumer the right to know about the use of claims histories. Notes that it allows a**

claim to stay on a person's record for up to five years. Mentions that it puts policies in place for policy cancellations and renewals. States that a person cannot lose their insurance for only making one claim in a five year period.

- 407 Rep. Shields Asks if the –A6 amendments are DCBS's.
- 409 Ario States that they are DCBS's as well as consensus amendments.
- 415 Rep. Shields Asks if DCBS is comfortable with the amendments.
- 417 Ario Responds that they are comfortable with the amendments.
- 423 Rep. Esquivel Asks if in the future a vehicle could be created to prevent insurance companies from putting a binder on a house that someone buys and then canceling the binder within 30 days.

TAPE 151, A

- 001 Ario Says that realtors felt the timeline with insurance companies was working well. Talks about the difficulties that insurance companies have when there is an expedited process. States that electronic communication will help lessen the time period for the insurance check.
- 026 Rep. Esquivel States that a notification period at the end of escrow should exist.
- 030 Ario States that the realtors say that the system is already workable.
- 041 John Powell State Farm Insurance and Liberty Northwest. Thanks the people who worked on the amendments.
- 053 Adkins Submits letter on the behalf of Oregon Student Public Interest Research Group (**EXHIBIT E**).
- 055 Chair Brown Closes the public hearing on SB 118A. Opens the public hearing on SB 585A.

SB 585A – PUBLIC HEARING

058	Janet Adkins	Committee Administrator. Explains SB 585A. Submits the –A4 and –A6 amendments (EXHIBIT F and G).
092	Vern Saboe	Chiropractic Association of Oregon. Speaks in support of SB 585A. States that it clarifies language regarding situations where a person needs medical attention after an automobile accident so they can see the health provider of their choice. Explains the –A4 and the –A6 amendments.
118	John Powell	State Farm Insurance Companies. Talks about the importance of the –A4 and --A6 amendments. Reiterates Mr. Saboe’s testimony.
154	Rep. Kitts	Asks if chiropractic care would fall under the definition of care on line 11.
163	Powell	Says that the definition of managed care services does not deal with a specific provider of care but more of a systematic delivery of care. States that an insurance company will not be able to require a person to go to a specific provider.
187	Rep. Kitts	Asks if SB 585A allows patients to be reimbursed for holistic medicine.
196	Powell	Talks about how the personal injury protection (PIP) benefit is broadly administered. States that massage is usually reimbursed.
202	Rep. Kitts	Asks about naturopathic treatments being covered.
204	Powell	States that some would be reimbursed
210	Rep. Kitts	States that he will support SB 585A, but says that health care is rising because the definition of what can be covered under health insurance.
233	Powell	States that Mr. Saboe has agreed to stay within the worker’s compensation fee schedule on a per treatment bases.
245	Rep. Holvey	Asks about the third party medical record review process and if the review party is an agent of the insurer.
257	Powell	Says that the insurance company would retain someone to review medical billings.

260 Rep. Holvey States that SB 585A is referring to a third party review and does not seem to define the reviewer as being employed by the insurer.

272 Powell Says the intent is that the third party reviewer is hired by the insurance company.

273 Doug Barber Peace Health and the Hospital Association. States that section five of SB 585A affects hospitals and insurers getting paid in relation to PIPs. Believes that section five would prevent them from filing liens for PIP services. Explains the reasons for the –A6 amendments.

296 George Okulitch Oregon Trial Lawyers Association (OTLA). Speaks in support of SB 585A and the –A6 amendments.

302 Chair Brown Asks if the OTLA supports the –A4 amendments.

304 Okulitch Responds that he is not prepared to speak to the –A4 amendments.

308 Chair Brown Closes the public hearing on SB 585A and opens the work session on SB 585A.

SB 585A – WORK SESSION

315 Rep. Holvey **MOTION: Moves to ADOPT SB 585-A4 amendments dated 05/17/05 and SB 585-A6 amendments dated 05/26/05.**

318 **VOTE: 6-0-1**

EXCUSED: 1 - Schaufler

Chair Brown Hearing no objection, declares the motion CARRIED.

325 Rep. Kitts **MOTION: Moves SB 585A to the floor with a DO PASS AS AMENDED recommendation.**

327 **VOTE: 6-0-1**

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 – Schaufler

(NOTE: Please see page 9, tape 152 A, of this tape log for Rep. Schaufler's vote.)

Chair Brown **The motion CARRIES.**

REP. KITTS will lead discussion on the floor.

340 Chair Brown Closes the work session on SB 585A. Opens the work session for the purpose of allowing Rep. Kitts to vote on SB 15.

SB 15 – WORK SESSION

341 Rep. Shields **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. KITTS to BE RECORDED as voting NAY on the motion to move SB 15 to the floor with a DO PASS AS AMENDED recommendation.**

345 **VOTE: 6-0-1**

EXCUSED: 1 – Schaufler

(NOTE: Please see tape 151, A, page 2, of this tape log for the original vote.)

Chair Brown **Hearing no objection, declares the motion CARRIED.**

REP. HOLVEY will lead discussion on the floor.

367 Chair Brown Closes the work session for the purpose of allowing Rep. Kitts to vote on SB 15. Opens the work session on SB 323.

SB 323 – WORK SESSION

374 Janet Adkins Committee Administrator. Explains SB 323. Submits the -5,-6, -7, and -9 amendments (**EXHIBIT H, I, J, and K**).

410 Grover Simmons Travel Industry. Speaks in opposition to the -9 amendments. States that -9 amendments could restrict his group from participating.

TAPE 150, B

001 Grover Simmons

Shares concerns about the travel industry being excluded from the task force.

017 Chair Brown States that, if he is the chair of the committee, Mr. Simmons will be included.

019 Roger Martin Speaks in support of the Chair's intent.

023 Tom Holt Farmers Insurance Association. Speaks in support of the Chair's intent to make the -9 amendments permissive.

029 Tom Gallagher Newspapers. Has no comment.

034 Rep. Kitts MOTION: Moves to ADOPT SB 323-5 amendments dated 05/12/05.

038 Rep. Shields States that he has concern about the -5 amendments suppressing wages.

042 Rep. Holvey Expresses similar concern about the -5 amendments and speaks in opposition to the -5 amendments.

045 VOTE: 4-2-1

AYE: 4 - Esquivel, Gilman, Kitts, Brown

NAY: 2 - Holvey, Shields

EXCUSED: 1 - Schaufler

Chair Brown The motion CARRIES.

055 Adkins Explains the -6 amendments.

062 Rep. Brown MOTION: Moves to ADOPT SB 323-6 amendments dated 05/19/05.

063 VOTE: 6-0-1

EXCUSED: 1 - Schaufler

Chair Brown **Hearing no objection, declares the motion CARRIED.**

065 **Rep. Kitts** **MOTION: Moves to ADOPT SB 323-9 amendments dated 05/31/05.**

067 **VOTE: 6-0-1**

EXCUSED: 1 – Schaufler

Chair Brown **Hearing no objection, declares the motion CARRIED.**

068 **Rep. Kitts** **MOTION: Moves SB 323 to the floor with a DO PASS AS AMENDED recommendation.**

071 **Rep. Kitts** Asks Rep. Shields and Rep. Holvey to explain the downward pressure on wages.

080 **VOTE: 6-0-1**

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 – Schaufler

(NOTE: Please see page 9, tape 152 A, of this tape log for Rep. Schaufler's vote.)

Chair Brown **The motion CARRIES.**

REP. KITTS will lead discussion on the floor.

085 **Chair Brown** Committee stands at ease at 9:12 a.m. Re-calls the meeting to order at 9:20 a.m. Closes the work session on SB 323. Opens the public hearing on SB 638.

SB 638 – PUBLIC HEARING

088 **Janet Adkins** Committee Administrator. Explains SB 638 and submits the -1 amendments (**EXHIBIT M**).

100 **Sen. Ryan Deckert** Senate District 14. Submits written testimony in support of SB 638 (**EXHIBIT N**). Talks about the restoration policy of state agencies. Explains that if an employee in a management position is not working out then they can transfer an employee to another agency. Indicated

that the agency hire the employee even if no position exists for the individual. Wants to end the restoration policy.

- 126 Chair Brown Asks if the agency that receives the employee under the restoration policy has to keep the individual for a certain amount of time.
- 129 Sen. Deckert Says that, in the instances that he is aware of, the state agency still has the employee.
- 138 Rep. Schaufler Shares concern about a management employee not being able to become a classified worker if there is work there to be done.
- 153 Sen. Deckert Believes that at-will-employment is a better policy. Notes that the person would be able to re-apply for the position.
- 165 Rep. Schaufler Asks if SB 638 would discourage people from progressing to management positions in state agencies.
- 180 Rep. Esquivel Shares concern that a classified employee will not want to progress into management.
- 195 Sen. Deckert Believes that private industry does not guarantee the old position if a person progresses to a new position.
- 214 Rep. Kitts Concurs with Sen. Deckert's position.
- 230 Rep. Schaufler Asks if the issue revolves around employee seniority. States that the union folks are nodding their heads no.
- 240 Harvey Matthews Associated Oregon Industries. Speaks in support of SB 638 without the -1 amendment. Says that the restoration policy is not needed.
- 252 Sen. Deckert States that he supports SB 638 without the -1 amendments.
- 265 Mary Botkin American Federation of State and County Municipal Employees. Takes a neutral position of SB 638. Shares a story with the committee. Believes that it makes sense for members to be able to leave the bargaining unit and become management. Wants people to be able to return to the bargaining unit. Says that she does not know of a case where a former manager has had a job created solely for them.

315 Botkin Indicates that SB 638 will not get rid of a bad manager.

332 Rep. Schaufler Asks if SB 638 will conflict with collective bargaining agreement.

341 Botkin Says that collective bargaining agreements always supercede state law.

345 Rep. Schaufler Speaks in support of collective bargaining agreements.

353 Rep. Kitts Cautions Ms. Botkin about commenting on a senator's intentions.

370 Botkin Apologizes for statement and says that her past experience indicates that her comment may be true.

375 Rep. Holvey Asks if an employee has moved up into management and has gone back to the bargaining unit.

387 Botkin Says that she does not know.

TAPE 151, B

009 Rep. Kitts States that the language of SB 638 is permissive.

016 Rep. Holvey Reads from Sen. Deckert's testimony. Counters that the language does not seem permissive.

025 Sue Wilson Department of Administrative Services. Submits written testimony in support of SB 638 with the -1 amendments (**EXHIBIT O**).

028 Lauri Warner Acting Director, Department of Administrative Services (DAS). Speaks in support of SB 638 with the -1 amendments. Says that she has experience with the people coming out of management employment.

038 Wilson Says that two reasons can allow a person in a management position to be removed. States that when a person does not like the management position a person has restoration rights. Notes that if no work exists for the person then the person should be laid off. Indicates that SB 638 takes away the ability of DAS to restore employees to old positions.

073	Rep. Kitts	States that it does not take away the ability for a person to return to an old position. Believes that SB 638 is permissive.
079	Wilson	Talks about how the collective bargaining agreements does not allow them to come back. Says that the court has ruled that a “may” in the law is a “shall”.
093	Rep. Kitts	States that a court’s ruling about a may in one case does not mean that they will rule that all may’s are shall’s.
104	Wilson	States that there have been numerous cases and that it is the legal opinion of DAS counsel.
109	Chair Brown	Asks if the state will be able to demote an individual.
110	Wilson	Says that SB 638 would take away the option of restoring the individual.
116	Chair Brown	Asks if the situation applies even if the employee agreed.
117	Wilson	Mentions that it would occur even if the employee agreed to it.
118	Rep. Kitts	Asks where in SB 638 says that a manager cannot go back to their original job.
129	Wilson	Says that a person could apply for a job in a different agency. Believes that in some of the situations the state should be allowed to let them go back to their old position. States that this is not a problem in state government. Says that there have been twelve cases in the last eight years. Asserts that agencies like to having the restoration option.
154	Rep. Kitts	Asks if a temporary director of an agency would be able to return the employee to the position that the person had prior to accepting the temporary directorship.
159	Warner	Talks about how a person would not have restoration rights to their old management position if they took a temporary executive position. Believes that many would not advance to state management employees from classified positions.

196	Chair Brown	Asks if the management employees have “bumping rights”.
198	Warner	States that only classified employees have “bumping rights”.
214	Rep. Schaufler	Asks if seniority would be at the level it was prior to the employee taking the non-classified job.
237	Wilson	States that the collective bargaining issue would most likely end up in a litigation. Says that the issue would have to be bargained for the next contract if SB 638 passes.
262	Rep. Schaufler	Asks for the line in SB 638 were it prohibits a person from being restored.
268	Wilson	States that the first paragraph addresses the issue.
275	Rep. Kitts	Believes that SB 638 will not forbid DAS from rehiring people.
294	Wilson	Says that the issue exists because agencies are tight on resources and there may not be a position open at the time a non-classified state employee wants to return to being a classified position.
302	Rep. Kitts	Asks what happens when no position is open and an employee is coming back into the position.
304	Wilson	Indicates that the agency has the ability to start a layoff process if no work exists for the employee.
312	Warner	Says that two people have returned to DAS under the current restoration policy. Details their situations.
333	Rep. Kitts	Believes that the current restoration policy creates a situation where it is difficult to get rid of state employees that are not needed.
341	Warner	Notes that she would not depict it in that way. Says that if the employee is not performing a termination process is started. Responds that the restoration process helps them utilize the state’s resources more effectively.
363	Rep. Kitts	Asks for the information on terminated employees.

- 374 Wilson Offers to get the information. States that it is an “urban legend that once you are a state employee you are always a state employee.”
- 382 Rep. Holvey Shares concern that SB 638 takes away the ability for the state to use its best resources.
- 398 Chair Brown Asks what the -1 amendments do.
- 400 Wilson States that DAS will have a conflict with SB 638 if it is not amended with the -1 amendments. Explains the amendments.
- 418 Chair Brown Closes the public hearing on SB 638. Opens the work session for the purpose of allowing Rep. Schaufler to vote on SB 323 and SB 585.

TAPE 152, B

SB 323 and SB 585 – WORK SESSION

- 001 Rep. Kitts **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. SCHAUFLEER to BE RECORDED as voting AYE on the motion to move SB 323 to the floor with a DO PASS AS AMENDED recommendation and the motion to move SB 585A to the floor with a DO PASS AS AMENDED recommendation.**
- 007 **VOTE: 7-0-0**

(NOTE: Please see page 4, tape 151 A, of this tape log for the original vote on SB 585A and page 6, tape 150 B, of this tape log for the original vote on SB 323.)
- Chair Brown **Hearing no objection, declares the motion CARRIED.**
- 014 Chair Brown Closes the work session for the purpose of allowing Rep. Schaufler to vote on SB 323 and SB 585. Adjourns the meeting at 10:11 a.m.

EXHIBIT SUMMARY

- A. **HB 3456, written testimony, Paul Meunier, 1 p**
- B. **SB 15, -2 amendments, staff, 1 p**
- C. **SB 118, written testimony, Joel Ario, 7 pp**
- D. **SB 118, -A6 amendments, staff, 3 pp**
- E. **SB 118, written testimony of the Oregon Student Public Interest Research Group, staff, 1 p**
- F. **SB 585, -A4 amendments, staff, 1 p**
- G. **SB 585, -A6 amendments, staff, 1 p**
- H. **SB 323, -5 amendments, staff, 1 p**
 - I. **SB 323, -6 amendments, staff, 1 p**
 - J. **SB 323, -7 amendments, staff, 1 p**
 - K. **SB 323, -9 amendments, staff, 1 p**
- L. **No exhibit**
- M. **SB 638, -1 amendments, staff, 1 p**
- N. **SB 638, written testimony, Sen. Ryan Deckert, 1 p**
- O. **SB 638, written testimony, Susan Wilson, 2 pp**