

CONFERENCE COMMITTEE ON SB 323A

June 28, 2005 Hearing Room D

1:45 P.M. Tape 1

MEMBERS PRESENT: **Sen. Rick Metsger, Chair**
 Sen. Roger Beyer
 Sen. Vicki Walker
 Rep. Alan Brown
 Rep. Sal Esquivel
 Rep. Paul Holvey

STAFF PRESENT: **Theresa Van Winkle, Committee Administrator**
 Katie Lowry, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 323A – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 1, A		
005	Chair Metsger	Calls the meeting to order at 1:49 p.m. and opens a work session on SB 323A.
<u>SB 323A – WORK SESSION</u>		
006	Chair Metsger	Relates purpose of meeting. States that Legislative Counsel has drafted the –A11 amendments which have been submitted by staff for the record (EXHIBIT A).
012	Sen. Walker	Discusses concerns with section 9 of the A-engrossed bill. Provides an overview of the –A11 amendments.
033	Chair Metsger	Asks Mr. Gallagher to comment on the –A11 amendments.
038	Tom Gallagher	Oregon Newspaper Publishers. Expresses support for SB 323A. Explains newspaper “stringers”. Expresses support for the –A11 amendments.
058	Chair Metsger	Asks witnesses to explain the material change in the amendments regarding the stringers. Asks them to comment why the language is helpful.
061	Tamara Brickman	Legislative Coordinator, Oregon Employment Department. Explains reasoning for choosing the language in the –A11 amendments.
081	Chair Metsger	Inquires if a newspaper stringer would not be considered an employee. Verifies that this language would not convert an employee into a stringer in order to avoid the associated taxes and that this language would strictly be for those who were submitting information independently.
094	Gallagher	Replies yes, that is his understanding of the amendment.
096	Sen. Beyer	Wonders about other situations where a person is not truly an employee, but does not meet the definition of an independent contractor so they get counted as an employee. Points out they

		may not have someone to lobby on their behalf in order to create an exemption for their industry.
102	Gallagher	Explains his understanding is that a person is either an employee or an independent contractor under Oregon law. Discusses previous hearings on this issue.
118	Sen. Beyer	Points out newspaper carriers and independent truck drivers have an exemption under statute. Suggests the statute is not constructed properly.
126	Gallagher	Discusses the difficulty in addressing every possible circumstance within a law. Discusses anomalies in the area of employee and independent contractor.
136	Sen. Beyer	Explains he would solve the problem by case law. States he won't oppose the amendments or the bill. Expresses concerns regarding this issue.
152	Rep. Brown	Relates experience with the issue of independent contractors. Remarks exemptions are probably an acceptable part of the statute. Believes this bill is a product of a work group and that he is pleased with the product.
182	Rep. Esquivel	Comments this issue has been around for a while. Believes the definition of an independent contractor is very subjective based on perspective. Believes they will never satisfy everyone with a definition.
197	Chair Metsger	Comments on the difficulty of finding the appropriate language for this issue.
201	Rep. Holvey	Inquires why a stringer is able to be defined as an independent contractor while only working for one newspaper. Expresses concerns with the –A11 amendments.
237	Chair Metsger	Appreciates Rep. Holvey's comments. Comments on dollar threshold.
242	Gallagher	Points out that a newspaper stringer could not produce enough articles to make a living. Provides examples of who this legislation would apply to.
271	Rep. Holvey	Asks why we wouldn't want to put a dollar threshold in statute in light of witness' response. Expresses concerns for abuses of this situation.
287	Gallagher	Reiterates one cannot make a living from being a stringer. Explains what kind of things would be submitted by a newspaper stringer.
310	Rep. Holvey	Remarks that doesn't answer his question regarding a dollar threshold. Believes that if a person is being paid a pre-determined amount of money they should be considered an employee.
318	Gallagher	Believes setting a threshold would not solve the problem for the worker. Explains in detail.
328	Sen. Walker	Explains reasoning for not choosing to use a dollar threshold. Comments on Sen. Beyer's concerns regarding exemptions.
359	Sen. Beyer	Makes comments on exemptions.
365	Chair Metsger	Makes comments on exemptions.
380	Sen. Beyer	Comments on unequal treatment by different agencies.
407	Chair Metsger	Appreciates work done.
415	Sen. Walker	MOTION: Moves to ADOPT SB 323AA-A11 amendments dated 06/28/05.
417	Chair Metsger	VOTE: 6-0-0 Hearing no objection, declares the motion CARRIED.

425	Sen. Walker	MOTION: Moves SB 323AA to the floor with the recommendation that the Senate CONCUR in House amendments dated 06/08/05 and that the bill be FURTHER AMENDED by the -A11 amendments dated 06/28/2005 and the measure be REPASSED.
433	Chair Metsger	VOTE: 6-0-0 Hearing no objection, declares the motion CARRIED. REP. BROWN AND SEN. WALKER will lead discussion on the floor.
438	Sen. Walker	States she has appreciated working with Rep. Brown on this issue.
442	Chair Metsger	Closes the work session on SB 323A and adjourns the meeting at 2:18 p.m.

EXHIBIT SUMMARY

A. SB 323A, -A11 amendments, staff, 1 p