

SENATE COMMITTEE ON COMMERCE

February 10, 2005
3:10 P.M.

Hearing Room C
Tapes 13 - 14

MEMBERS PRESENT: Sen. Prozanski, Chair
Sen. Beyer, Vice-Chair
Sen. Whitsett

MEMBER EXCUSED: Sen. Burdick
Sen. Ringo

STAFF PRESENT: Anna Braun, Committee Administrator
Karen Scoffield, Committee Assistant

MEASURES/ISSUES HEARD:

Introduction of Committee Measures – Work Session
SB 131 – Public Hearing
SB 132 – Public Hearing
SB 133 – Public Hearing
SB 134 – Public Hearing
SB 135 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 13, A		
005	Chair Prozanski	Opens meeting at 3:12 p.m. Opens work session for introduction of committee measures.
<u>INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION</u>		
015	Anna Braun	Committee Administrator. Introduces LC 2393 (EXHIBIT A) and LC 2643 (EXHIBIT B).
020	Sen. Beyer	MOTION: Moves LC's: 2393, 2643 BE INTRODUCED as committee bills.
		VOTE: 3-0-2
		EXCUSED: 2 – Burdick, Ringo
	Chair Prozanski	Hearing no objection, declares the motion CARRIED.
030	Chair Prozanski	Closes work session and opens public hearing on SB 131.
<u>SB 131 – PUBLIC HEARING</u>		
035	Anna Braun	Committee Administrator. Gives an overview of SB 131.
040	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 131 (EXHIBIT C).
050	Sen. Whitsett	Discusses concerns regarding bill's language.
060	Gardner	Explains the intention of the language.
065	Sen. Whitsett	Comments regarding misunderstanding.
067	Gardner	Clarifies what the language says and intends.
070	Sen. Whitsett	Discusses language of SB 131.
072	Gardner	Answers that the language being discussed is existing law.
077	Chair Prozanski	Inquires if anyone has been denied ability to start a business based on not having tax statements from a preceding year.

085	Gardner	Answers that no there has not been, nor will there be.
086	Sen. Beyer	Inquires as to why BOLI is bringing this bill and not the Department of Revenue.
095	Chair Prozanski	Clarifies his understanding of the bill.
105	Christine Hammond	Administrator, Wage and Hour Division, BOLI. Discusses the background and need of the bill.
120	Anna Braun	Submits written testimony on behalf of John McCulley, Tree Fruit Growers, regarding SB 131 (EXHIBIT D) .
130	Don Schellenberg	Oregon Farm Bureau. Discusses and submits written testimony in support of SB 131. (EXHIBIT E) .
145	Chair Prozanski	Closes public hearing on SB 131 and opens public hearing on SB 132.

SB 132 – PUBLIC HEARING

150	Anna Braun	Committee Administrator. Gives overview of SB 132.
155	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 132 (EXHIBIT F) .
175	Sen. Beyer	Inquires as to why language regarding farm worker contractors having workers compensation is being moved.
185	Christine Hammond	Administrator, Wage and Hour Division, BOLI. Remarks that the language is moved to consolidate provisions for farm labor contractors and forest labor contractors.
215	Sen. Beyer	Clarifies what current statute says regarding workers compensation insurance.
220	Hammond	Answers clarification.
225	Sen. Whitsett	Asks for clarification regarding definition of employee indorsement.
230	Hammond	Answers clarification.
235	Sen. Whitsett	Inquires regarding the deletion of language in the bill.
240	Hammond	Answers question regarding language and discusses purpose of the bill.
250	Don Schellenberg	Oregon Farm Bureau. Discusses and submits written testimony in support of SB 132 (EXHIBIT G) .
270	Chair Prozanski	Closes public hearing on SB 132 and opens public hearing on SB 133.

SB 133 – PUBLIC HEARING

275	Anna Braun	Committee Administrator. Gives overview of SB 133.
290	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 133 (EXHIBIT H) .
305	Sen. Beyer	Inquires regarding the difference between the definition of a farmer and a farm labor contractor.
315	Christine Hammond	Discusses difference between a farmer and a farm labor contractor. Discusses effects of SB 133.
335	Sen. Beyer	Provides a scenario and inquires if someone would be an unlicensed farm labor contractor.
350	Hammond	Answers that there is an exclusion for the scenario described.
360	Chair Prozanski	Inquires regarding payment for a farm labor contractor.
365	Gardner	Answers question.
370	Sen. Beyer	Refers back to his previous scenario.
375	Chair Prozanski	Clarifies understanding of the difference between a farmer and a farm labor contractor.
380	Sen. Beyer	Clarifies question.
380	Gardner	Clarifies the difference between accepting a fee and receiving a

		reimbursement for actual wages.
395	Chair Prozanski	Asks Schellenberg's opinion regarding the previous discussion.
400	Don Schellenberg	Oregon Farm Bureau. States understanding.
410	Hammond	Discusses those exempt under provisions of the farm labor contractor law. Cites OAR 839.015.0130 (16).
430	Sen. Whitsett	Inquires where a fine would go if a suit was brought by BOLI.
440	Hammond	Discusses that BOLI has not taken an action under this provision. Remarks that civil penalties go to the housing fund for farmworker camp. Offers to return information to the committee.
460	Sen. Whitsett	Inquires how BOLI could be damaged.
470	Hammond	Answers question.
TAPE 14, A		
045	Hammond	Continues to discuss answer regarding BOLI's damages.
050	Schellenberg	Discusses and submits written testimony regarding neutral position to SB 133 (EXHIBIT I).
055	Chair Prozanski	Closes public hearing on SB 133 and opens public hearing on SB 134.
<u>SB 134 – PUBLIC HEARING</u>		
060	Anna Braun	Committee Administrator. Provides an overview of SB 134. Submits written testimony on behalf of John McCulley, Tree Fruit Growers, regarding SB 134 (EXHIBIT J).
065	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 134 (EXHIBIT K).
080	Don Schellenberg	Oregon Farm Bureau. Discusses and submits written testimony in support of SB 134 (EXHIBIT L).
090	Gardner	Clarifies McCulley's question in EXHIBIT J regarding the service of process.
095	Chair Prozanski	Closes public hearing on SB 134 and opens public hearing on SB 135.
<u>SB 135 – PUBLIC HEARING</u>		
096	Anna Braun	Committee Administrator. Discusses SB 135 and submits the proposed -1 amendments (EXHIBIT M). Submits written testimony on behalf of John McCulley, Tree Fruit Growers, in opposition to SB 135 (EXHIBIT N).
100	Dan Gardner	Commissioner, Bureau of Labor and Industries (BOLI). Discusses and submits written testimony in support of SB 135 (EXHIBIT O).
125	Sen. Whitsett	Discusses objections in EXHIBIT M. Inquires if the objections have already been taken out of the bill.
130	Braun	Answers that she is not sure.
135	Chair Prozanski	Comments on need for clarification from BOLI.
140	Sen. Whitsett	Asks for the definition of certified payroll.
143	Hammond	Discusses definition of certified payroll.
155	Sen. Whitsett	Inquires if a certified payroll record is not required of other types of workers.
157	Hammond	Answers what type of employees are required to have certified payroll records.
160	Don Schellenberg	Discusses and submits written testimony regarding neutral position to SB 135 (EXHIBIT P).
170	Nargess Shadbeh	Attorney, Oregon Law Center. Discusses and submits written testimony in support of SB 131, 132, 133, 134, and 135 (EXHIBIT Q).

195	Dan Gardner	Discusses letter from Tree Fruit Growers and answers previous question from Sen. Whitsett.
205	Sen. Beyer	Inquires as to what wage information is now required on pay stubs.
210	Gardner	Answers that it is required to show hours worked, rate of pay, and any deductions made from paycheck.
215	Sen. Beyer	Clarifies that these items are required on pay stubs of all employees, including farm labor contractor employees.
216	Gardner	Answers that yes it is required of any employee in the state.
217	Sen. Beyer	Discusses Shadbeh's testimony regarding the need of forms to be in Spanish.
225	Gardner	Comments that some workers may not understand what is a legal deduction. Discusses personal experience in assisting someone who had been wronged.
245	Sen. Beyer	Clarifies that BOLI can assist an employee who has questions regarding their pay stubs.
250	Gardner	Answers that they would assist employees and take action if necessary.
265	Sen. Beyer	Asks if reports received by BOLI become public record.
270	Hammond	Answers that payroll information is exempt from disclosure under the public records law.
280	Gardner	Comments that BOLI takes out personal information that is not subject to public records on many occasions.
285	Sen. Beyer	Inquires if this is a requirement or if BOLI does this at their discretion.
295	Hammond	Answers that it is public records law and it prohibits disclosure of that information.
300	Chair Prozanski	Discusses the status of the bills after today's meeting. Closes public hearing on SB 135. Adjourns the meeting at 4:07 p.m.

EXHIBIT SUMMARY

- A. **Introductions, LC 2393, staff, 5 pp**
- B. **Introductions, LC 2643, staff, 3 pp**
- C. **SB 131, written testimony, Dan Gardner, 2 pp**
- D. **SB 131, written testimony of John McCulley, Anna Braun, 1 p**
- E. **SB 131, written testimony, Don Schellenberg, 1 p**
- F. **SB 132, written testimony, Dan Gardner, 2 pp**
- G. **SB 132, written testimony, Don Schellenberg, 1 p**
- H. **SB 133, written testimony, Dan Gardner, 2 pp**
- I. **SB 131, 132, 133, 134, 135, written testimony, Don Schellenberg, 1 p**
- J. **SB 134, written testimony of John McCulley, Anna Braun, 1 p**
- K. **SB 134, written testimony, Dan Gardner, 2 pp**
- L. **SB 134, written testimony, Don Schellenberg, 1 p**
- M. **SB 135, -1 amendments, staff, 1 p**
- N. **SB 135, written testimony of John McCulley, Anna Braun, 1 p**
- O. **SB 135, written testimony, Dan Gardner, 2 pp**
- P. **SB 135, written testimony, Don Schellenberg, 1 p**
- Q. **SB 135, 131, 132, 133, 134, Nargess Shadbeh, 1 p**