

SENATE COMMITTEE ON COMMERCE

April 05, 2005
3:10 P.M.

Hearing Room C
Tapes 49 - 50

MEMBERS PRESENT: **Sen. Floyd Prozanski, Chair**
 Sen. Roger Beyer, Vice-Chair
 Sen. Ginny Burdick
 Sen. Charlie Ringo
 Sen. Doug Whitsett

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

MEASURES/ISSUES HEARD:
 SB 644 – Public Hearing
 SB 670 – Public Hearing
 SB 1001 – Public Hearing
 SB 311 – Work Session
 SB 321 – 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 49, A		
005	Chair Prozanski	Calls the meeting to order at 3:18 p.m. Notes that the committee is meeting as a subcommittee. Opens public hearing on SB 644.
<u>SB 644 – PUBLIC HEARING</u>		
010	Rep. Diane Rosenbaum	House District 42. Discusses and submits written testimony in support of SB 644 (EXHIBIT A). States that SB 644 is co-sponsored by herself and Sen. Vicki Walker.
041	Rep. Rosenbaum	Summarizes and concludes testimony.
090	Chair Prozanski	Notes the presence of a quorum.
100	Joe Schaeffer	Service Employees International Union (SEIU), Local 503. Discusses and submits written testimony in support of SB 644 (EXHIBIT B).
115	Annette Talbott	Deputy Labor Commissioner, Bureau of Labor and Industries (BOLI). Submits written testimony on behalf of Dan Gardner, Commissioner, BOLI, in support of SB 644 (EXHIBIT C).
145	Sen. Beyer	Asks Talbott for an accurate reflection of the anecdotes that were provided.
153	Talbott	Responds.
161	Sen. Beyer	Comments on Talbott's response.
163	Talbott	Responds.
166	Sen. Beyer	Verifies that BOLI has not received complaints from employees.
168	Talbott	States that they would not take a complaint from an employee in this instance because it is not currently unlawful.
170	Sen. Beyer	Asks if BOLI has received calls from employees stating that this has happened to them.
174	Talbott	Responds.
178	Sen. Beyer	Clarifies that Talbott does not have a number of the calls they

		receive.
180	Talbott	Responds.
182	Sen. Beyer	Provides an example and asks if it would count as family leave.
185	Talbott	Responds that the Oregon Family Leave Act (OFLA) requires a serious health condition.
190	Sen. Beyer	Asks if the leave can be used for the worker or for a family member.
192	Talbott	Responds that it includes a serious health condition for the individual and a family member.
194	Schaeffer	Remarks that OFLA only applies once an employee has been gone for a certain number of days.
200	Chair Prozanski	Clarifies that individuals who use OFLA have to have their health care provider sign off on their return to work.
205	Schaeffer	Responds that he does not know.
207	Talbott	Remarks that employers can ask for medical certification to make sure that an employee is able to return to work.
219	Lisa Trussell	Associated Oregon Industries (AOI). Testifies in opposition to SB 644.
260	J.L. Wilson	National Federation of Independent Business (NFIB). Testifies in opposition to SB 644.
285	Sen. Whitsett	Comments on the restrictions to employers.
292	Chair Prozanski	Asks witnesses if they are aware of situations described by Rep. Rosenbaum.
300	Wilson	Responds.
302	Trussell	Responds.
304	Chair Prozanski	Asks Sen. Vicki Walker if she has any comments on SB 644.
306	Sen. Vicki Walker	Senate District 7. States that she does not need to comment as Rep. Rosenbaum represented her.
308	Chair Prozanski	Closes public hearing on SB 644 and opens public hearing on SB 670.

SB 670 – PUBLIC HEARING

319	Sen. Vicki Walker	Senate District 7. Testifies in support of SB 670. Discusses and submits an informational packet in support of SB 670 (EXHIBIT D).
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TAPE 50, A

010	Sen. Walker	Concludes testimony.
020	Sen. Whitsett	Relates concern with change in the law allowing the Director of DCBS to prescribe treatment standards.
025	Sen. Walker	Responds.
035	Sen. Whitsett	Remarks that he does not agree with the current statute.
037	Chair Prozanski	Asks Sen. Walker if page 1, line 28 of SB 670 does result in a rule process.
040	Sen. Walker	Remarks that it is directing the Director to do this because they are not doing it currently.
045	Chair Prozanski	Clarifies his question.
047	Sen. Walker	Responds.
050	Chair Prozanski	States understanding.
051	Sen. Walker	Responds.
060	Drew Hagedorn	Oregon Health Systems. Defers to Ramona St. George.
065	Ramona St. George	President & CEO, Oregon Health Systems. States that Oregon Health Systems is the only MCO that is certified on a statewide basis to provide services to insurers and injured workers. Testifies in opposition to SB 670.
120	St. George	Continues testimony.

145	Sen. Whitsett	Asks the percentage of the Oregon Health Systems' patients that are paid through workers' compensation.
149	St. George	Answers that 100% of their patients are workers' compensation patients.
151	Chair Prozanski	Asks how long the previous rule discussed by St. George was in effect before it was addressed.
155	St. George	Responds.
168	Chair Prozanski	Clarifies St. George's position.
171	St. George	Responds.
180	Chair Prozanski	Asks who information is given to to decide on disability benefits.
190	St. George	Answers that the information is shared between the employer and the insurer.
200	Chair Prozanski	Asks the type of position of those providing the analysis.
204	St. George	Answers that they are primarily a claims adjuster for the insurance company.
208	Chair Prozanski	Asks if the patient has access to their contract.
215	St. George	Remarks that patients do not have access to their entire contract because they contain trade secrets.
223	Chair Prozanski	Asks if patients have to go through DCBS to obtain a copy of the contract.
225	St. George	Responds.
230	Chris Davie	State Accident Insurance Fund (SAIF) Corporation . Testifies regarding SB 670. States that ORS 656.260 discusses the confidentiality of MCO contracts.
273	Sen. Whitsett	Asks if the restriction includes a prescription for physical therapy.
275	Davie	Responds that it speaks generally to advocacy for the worker.
280	Sen. Whitsett	Clarifies that it would not restrict a physician from prescribing physical therapy to finish rehabilitation.
282	Davie	Answers, no.
284	Chair Prozanski	Asks SAIF's opinion of page 1 of SB 670 requiring the Director of DCBS to prescribe by rule the different components that were discussed.
290	Davie	Responds that they do not have a problem with it.
294	Chair Prozanski	Clarifies that the proposed change on page 3, line 7 of SB 670 is something that SAIF is in support of.
302	Davie	Answers, yes.
320	Chair Prozanski	Asks Shilts DCBS' ability to carry out what is proposed in SB 670.
333	John Shilts	Administrator, Workers Compensation Division – Department of Consumer and Business Services (DCBS). Responds to Chair Prozanski's question.
413	Chair Prozanski	Asks Sen. Walker if she has any questions for DCBS.
415	Sen. Walker	Comments that she has called Legislative Counsel to come and explain line 28 of SB 670 because she thinks there has been some misunderstanding of what it does.
417	Shilts	Agrees that there is need for clarification.
420	Walker	Discusses understanding of the language.
425	Chair Prozanski	Discusses interpretation.
440	Walker	Responds.
445	Shilts	Discusses the interpretation of SB 670 by DCBS.
TAPE 49, B		
025	Chair Prozanski	States understanding of Sen. Walker's intent.

030	Walker	Responds.
034	Sen. Beyer	Asks if MLAC has reviewed SB 670.
035	Shilts	Answers that MLAC has not yet reviewed SB 670.
037	Sen. Beyer	Asks if MLAC is going to review SB 670.
039	Shilts	States understanding that MLAC plans to review SB 670 on April 14, 2005.
040	Sen. Whitsett	Asks the qualifications of the Director of DCBS to be able to prescribe treatment standards.
042	Shilts	Responds.
060	Charlie Cheek	Attorney, Legislative Counsel. Asks that the items in question be articulated.
065	Chair Prozanski	Refers to line 28, page 1 of SB 670 and discusses items in question.
075	Cheek	Responds.
080	Chair Prozanski	Clarifies Cheek's response and the intent of SB 670.
085	Cheek	Responds.
087	Chair Prozanski	Closes public hearing on SB 670 and opens public hearing on SB 1001.

SB 1001 – PUBLIC HEARING

100	Marshall Coba	Oregon Society of Physician Assistants. Submits letters in support of SB 1001 (EXHIBIT E) and submits a fact sheet entitled "Oregon Physician Assistant Facts" regarding SB 1001 (EXHIBIT F). Testifies with a neutral position on SB 1001.
110	Ted Ruback	Past President, Oregon Society of Physician Assistants. Discusses and submits written testimony in support of SB 1001 (EXHIBIT G).
128	Pat Kennedy – Moore	Immediate Past President, Oregon Society of Physician Assistants. Testifies in support of SB 1001.
160	Ben Johnson	Board Member, Oregon Society of Physicians Assistants. Testifies in support of SB 1001.
180	John Shilts	Administrator, Workers Compensation Division, Department of Consumer and Business Services (DCBS). Discusses and submits written testimony regarding SB 1001 (EXHIBIT H).
240	Shilts	Concludes testimony.
265	Lisa Trussell	Associated Oregon Industries (AOI). Testifies in opposition to SB 1001. States that the Management Labor Advisory Committee (MLAC) does not support SB 1001.
275	Chair Prozanski	Closes public hearing on SB 1001 and opens work session on SB 311.

SB 311 – WORK SESSION

280	Anna Braun	Committee Administrator. Provides an overview of SB 311. Introduces the -5 amendments to SB 311 (EXHIBIT I).
295	Sen. Beyer	MOTION: Moves to ADOPT SB 311-5 amendments dated 4/4/05.
298	Chair Prozanski	Clarifies that the -5 amendments to SB 311 represent the parties that were part of the workgroup. Recognizes the nods from the members of the workgroup in the audience. VOTE: 5-0-0
305	Chair Prozanski	Hearing no objection, declares the motion CARRIED.
	Sen. Beyer	MOTION: Moves SB 311 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-0
	Chair Prozanski	Hearing no objection, declares the motion CARRIED.

310 Sen. Ringo **SEN. RINGO will lead discussion on the floor.**
Comments that this is a significant issue and that it needs more work.

The following is submitted for the record without public testimony:

John Shilts Administrator, Workers Compensation Division, Department of Consumer and Business Services (DCBS). Submits written testimony regarding SB 311 and the -5 amendments (**EXHIBIT J**).

330 Chair Prozanski Closes work session on SB 311 and opens work session on SB 321.

SB 321 – WORK SESSION

331 Anna Braun Committee Administrator. Provides an overview of SB 321. Discusses the fiscal and revenue impacts of SB 321.

345 Sen. Burdick MOTION: Moves SB 321 to the floor with a DO PASS recommendation.

349 Sen. Beyer Clarifies that ballot measure 30 was the local mandate ballot.

350 Braun Answers, yes.

352 Sen. Beyer States that he will not support SB 321.

370 Sen. Whitsett States that he will not support SB 321.

VOTE: 3-2-0

AYE: 3 - Burdick, Ringo, Prozanski

NAY: 2 - Beyer, Whitsett

Chair Prozanski The motion CARRIES.

SEN. PROZANSKI will lead discussion on the floor.

380 Chair Prozanski Closes work session on SB 321. Discusses the agenda for the next committee meeting. States that the carrier on SB 311 has been changed to Sen. Ringo. Adjourns the meeting at 4:40 p.m.

EXHIBIT SUMMARY

- A. **SB 644, written testimony, Rep. Diane Rosenbaum, 2 pp**
- B. **SB 644, written testimony, Joe Schaeffer, 1 p**
- C. **SB 644, written testimony of Dan Gardner, Annette Talbott, 2 pp**
- D. **SB 670, informational packet, Sen. Vicki Walker, 7 pp**
- E. **SB 1001, letters, Marshall Coba, 17 pp**
- F. **SB 1001, fact sheet, Marshall Coba, 1 p**
- G. **SB 1001, written testimony, Ted Ruback, 4 pp**
- H. **SB 1001, written testimony, John Shilts, 2 pp**
- I. **SB 311, -5 amendments, staff, 6 pp**
- J. **SB 311, written testimony, John Shilts, 2 pp**