

SENATE COMMITTEE ON GENERAL GOVERNMENT

June 02, 2005
3:00 P.M.

Hearing Room B
Tapes 72 - 73

MEMBERS PRESENT: Sen. Frank Shields, Chair
Sen. Gary George, Vice-Chair
Sen. Bruce Starr
Sen. Joanne Verger
Sen. Vicki Walker

STAFF PRESENT: Judith Callens, Committee Administrator
Linda K. Gatto, Committee Assistant

MEASURES/ISSUES HEARD:
SB 310 – Work Session
SB 984 – Work Session
SB 1003 – 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 72, A		
004	Chair Shields	Calls the meeting to order at 3:10 p.m. Opens the work session on SB 310 with the -14 amendments (EXHIBIT A).
<u>SB 310 – WORK SESSION</u>		
031	Sen. Verger	States a preference to await what the court of appeals says about this case in regard to sovereign immunity and public records.
042	Sen. Walker	MOTION: Moves to ADOPT SB 312 -14 amendments dated 5/27/05.
051	Sen. Walker	Reviews the -14 amendments (EXHIBIT B).
082	Sen. Verger	Acknowledges the hard work and consensus on the -14 amendments. Reiterates a preference to await the outcome of the court process.
095	Chair Shields	Inquires where in the amendments Judge Lipscomb's definition of employer account records ends up in statute.
105	Sen. Walker	Responds on page ten, Section 10.
110	Chair Shields	Expresses concern about putting Judge Lipscomb's definition in statute before the appeal is heard.
112	Sen. George	Comments that he is comfortable with this clarification.
123	Sen. Walker	States that this is defining sovereign immunity noting that although there is a case in process it is not uncommon for issues before the legislature while also in court.
145	Sen. Walker	Refers to ORS 656.526 regarding employer account records and the importance of being able to determine if there has been discrimination with regard to group plans.
162	Sen. B. Starr	Refers to page ten, Section 10 defining employer records going backwards and asks what is the definition going forward.
169	Sen. Walker	Answers it is on page four.
173	Sen. B. Starr	Confirms this language was proposed by SAIF.

178	Chair Shields	Reiterates that he is uncomfortable with Judge Lipscomb's definition going into statute before the appeals process.
186		VOTE: 3-2-0 AYE: 3 - George, Starr B., Walker NAY: 2 - Verger, Shields The motion CARRIES.
188	Chair Shields Sen. Walker	MOTION: Moves SB 310 to the floor with a DO PASS AS AMENDED recommendation.
198	Sen. B. Starr	Comments that this is a compromise document.
211	Sen. George	Comments on Chair Shield's efforts.
219	Sen. Walker	Concurs with Sen. George.
231		VOTE: 3-2-0 AYE: 3 - George, Starr B., Walker NAY: 2 - Verger, Shields The motion CARRIES. SEN. WALKER will lead discussion on the floor.
229	Chair Shields	Serves notice of a minority report. States that he prefers the -16 amendments (EXHIBIT B) which will be the basis of the minority report. Express concern that the -14 amendments will not get a hearing in the House.
257	Chair Shields	Closes the work session on SB 310 and opens the work session on SB 984.
<u>SB 984 – WORK SESSION</u>		
278	Chair Shields	Requests clarification of the -3 (EXHIBIT C) and -4 amendments and (EXHIBIT D).
293	Charlie Cheek	Deputy Legislative Counsel. States that the -3 amendments are based on the -1 amendments (EXHIBIT E). States that the proposed revision to ORS 656.730 in the -4 amendments is a permanent provision; in statute; in the -3 amendments section is a temporary provision.
327	Chair Shields	Asks what are the implications are.
328	Cheek	Responds that in the -3 amendments, the authority for the director to get and use the information for the report due August 31, 2006 would be a single act, a session law that once accomplished the authority would not continue.
329	Sen. Verger	Asks what ability does the director of Department of Consumer and Business Services currently have to do this review.
370	Cory Streisinger	Director Department of Consumer and Business Services (DCBS). Responds the study is in their current authority. They have no objection to being directed by legislature and reporting back.
379	Chair Shields	Asks how the study would be approached.
380	Streisinger	Answers that the study language is the same in the -3 and -4 amendments.
384	Sen. Verger	Asks whether these reviews have been done before.
388	Streisinger	Responds that during the interim they took a first look at the assigned risk pool and realized that it needs a more thorough look. Adds that the work would be done with existing staff.
407	Sen. Verger	Asks why are companies placed in the assigned risk pool.
417	Streisinger	Responds in the preliminary look they found statutory discounts and advantages, and market factors that result in companies being in the assigned risk pool.
435	Cheek	Continues, noting a significant difference between the two

		amendments is who has to file a plan with the director that assists employers in the assigned risk pool in obtaining coverage in the voluntary market.
459	Chair Shields	Confirms that the -4 amendments require SAIF and the -3 amendments require both SAIF and Liberty.
463	Cheek	Answers affirmatively.
446	Chair Shields	Asks what are the practical implications.
466	Streisinger	Responds that both SAIF and Liberty, by contract, provide claims handling and coverage services to employers in the assigned risk pool. The effect would be that both would have the obligation to come up with ways to move these employers toward the voluntary market. The other amendments would require only SAI F to do that.
489	Chair Shields	Asks if this currently voluntary and not mandatory.
494	Streisinger	Answers affirmatively. The RFP cycle is in process now and it is hopeful that these servicing carriers will provide a proposal.
TAPE 73, A		
037	Sen. Walker	Asks does SAIF pay federal taxes.
038	Streisinger	Responds she does not believe they pay federal income taxes.
040	Sen. Walker	Asks why.
042	Streisinger	Answers there is an exemption in the federal tax code.
046	Sen. Walker	Asks if it is because SAIF is servicing the public.
047	Streisinger	Responds that she has not reviewed the code recently.
056	Chair Shields	Comments that SAIF is the insurer of last resort. States that after the Mahonia Hall reforms, about 10,000 employers moved from SAIF to an assigned risk pool.
068	Streisinger	Responds that it is her understanding it was a business decision.
074	Sen. Walker	Believes that SAIF should have to justify why these employers are in the assigned risk pool and what efforts are being made to get them out.
085	Chair Shields	Refers to the low workers' compensation rates in Oregon and asks will either of the amendments affect the workers' compensation rate.
095	Streisinger	Responds that the most important part of the bill for her is to learn more about the assigned risk plan and the factors that drive it.
103	Chair Shields	Asks is there a reason for the legislature to define the work product of DCBS under the -3 amendments versus the -4 amendments.
111	Streisinger	Responds that her interest is in the study. Neither of the amendments were proposed by her.
116	Cheek	Reviews the significant differences between the amendments in Section 5. States that both versions require the director to adopt rules relative to rating systems; notes that the -4 amendments contain specific criteria, the -3 amendments do not. Adds that the second distinction is that the -4 amendments make a legal requirement that workers' compensation rates and supporting documents are not exempt from disclosure under public records and the -3 amendments leave the rulemaking authority to the director.
139	Sen. Verger	Asks for clarification.
144	Cheek	Answers that in the -3 amendments the director may adopt rules that provide the information is not subject to disclosure. The -4 amendments state they are not exempt from disclosure.

162	Sen. George	Asks if the purpose of this is to ensure that the information gathered would help an employer make an informed decision on how to insure and what the criteria is for rating them is.
180	Cheek	Responds that the -4 amendments specify what the rules must allow for.
189	Chair Shields	Notes the language in the - 4 amendments “shall adopt” and in the -3 amendments “may adopt”.
192	Cheek	Clarifies that in the -3 amendments, subsection 1 line 11 it says “shall adopt” but it does not have specificity.
196	Chair Shields	Asks what effect does this have.
212	Streisinger	States that there are two issues 1) how to do rates, and 2) the confidentiality of rate filings. Clarifies further.
238	Sen. Verger	Refers to the -4 amendments and asks if a company has information that they consider a trade secret and the DCBS makes it public, could DCBS be sued.
260	Streisinger	Responds no, the choice would be to not participate in the Oregon market. The -4 amendments would discourage new entrance in the market.
277	Jack Monroe	Representing the American Insurance Association. Provides that underwriters are writing niches in the Oregon market. These writers would consider their expertise proprietary.
322	Brian Boe	Representing Liberty Northwest. States these discussions are in essence to ensure objectivity in the rate making and application process. The concern is that there has been excessive subjectivity. The market is a dualopoly heading towards a monopoly. Believes the -4 amendments will stimulate competition by ensuring equity in rates.
414	Chair Shields	Asks for a response to Mr. Monroe’s comments that insurers will stay away.
415	Boe	Answers that those companies are headquartered in other states and operating in Oregon.
439	Sen. George	Refers to Section 5 in the - 4 amendments and asks, if it is determined by rule that it is a trade secret is there no requirement to disclose it.
462	Cheek	Clarifies that in subsection 1, line 7 it states they are not exempt from disclosure.
TAPE 72, B		
013	Sen. Verger	States she would rather be objective and support the study. Responds to Sen. George’s comment if there is a company that does fall under trade secrets they have a right to participate but not show “their hand” to their competitors.
031	Boe	Responds with favor for the - 4 amendments. Refers to concerns about the assigned risk portion of the bill and believes there is one carrier that should have special responsibilities. The purpose of the bill was to define SAIF’s public purpose.
060	Cheek	Points out a distinction that provides in the - 3 amendments that is not in the - 4 amendments that calls for a study which is a different report than in the – 3 amendments.
074	Streisinger	Responds that workers’ compensation rates are subject to pre approval. Understands that this is questioning if the tier pricing rates are being applied appropriately.
088	Sen. B. Starr	Asks if this is already being done.
092	Streisinger	Answers yes, but not every company every year.
107	Sen. Walker	MOTION: Moves to ADOPT SB 984-4 amendments dated

5/25/05.
 Chair Shields
 117 Sen. B. Starr
 Recesses the committee for 18 minutes.
 Explains the agreement is to conceptually amend the - 4 amendments.
 125 Sen. B. Starr
MOTION: Moves to SUSPEND the rules for the purpose of Conceptually amending the -4 amendments.
VOTE: 5-0-0
 Chair Shields
 130 Sen. B. Starr
Hearing no objection, declares the motion CARRIED.
MOTION: Moves the measure be FURTHER AMENDED by deleting "Section 5 in the -4 amendments page 3 lines 7 - 26" and by inserting "Section 5 in the - 3 amendments page 3 lines 11 - 19 into the -4 amendments".
VOTE: 5-0-0
 Chair Shields
 150 Judith Callens
Hearing no objection, declares the motion CARRIED.
 Committee Administrator. Notes that page 3, line 27 of the - 4 amendments has a section that applies to filings and the suggestion of the Insurance Commissioner is to remove Section 6 from the - 4 amendments.
 164 Sen. B. Starr
MOTION: Moves the measure be FURTHER AMENDED by deleting "page 3, lines 7 - 30 of the - 4 amendments" and insert "Section 5 lines 11 - 19, page 3 of the - 3 amendments ".
VOTE: 5-0-0
 Chair Shields
 194 Sen. B. Starr
Hearing no objection, declares the motion CARRIED.
MOTION: Moves to ADOPT SB 984-4 amendments as CONCEPTUALLY AMENDED dated 5/25/05.
VOTE: 5-0-0
 210 Sen. B. Starr
AYE: 5 - George, Starr B., Verger, Walker, Shields
MOTION: Moves SB 984 to the floor with a DO PASS AS AMENDED recommendation.
VOTE: 5-0-0
 Chair Shields
AYE: 5 - George, Starr B., Verger, Walker, Shields
The motion CARRIES.
SEN. B. STARR will lead discussion on the floor.
 221 Chair Shields
 Closes the work session on SB 984 and opens the work session on SB 1003.

SB 1003 – WORK SESSION
 232 Judith Callens
 Committee Administrator. States that the -3 amendments replace the original bill (**EXHIBIT F**) and reviews the provisions of SB 1003 -3 amendments.
 247 Sen. George
 Asks what are the ramifications of legitimate injury claims that are denied in regard to those injuries not being taken care of and the associated costs.
 274 Sen. Walker
 States that the -3 amendments are her bill SB 754. Discusses concerns that arose from the Mahonia Hall reforms, the study on SAIF and Liberty claim denials, and cost shifting.
 320 Sen. Walker
 States it has been 15 years since the reforms and if workers' compensation is to work fairly this is one way to review that it is working fairly.
 346 Chair Shields
 Agrees that a legitimate claim should be handled and not cost shifted. The workers compensation system has to balance the need of both the workers and the employers.

380	Sen. Walker	MOTION: Moves to ADOPT SB 1003-3 amendments dated 3/30/05.
384		VOTE: 5-0-0
	Chair Shields	Hearing no objection, declares the motion CARRIED.
388	Sen. Walker	MOTION: Moves SB 1003 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED and BE REFERRED to the Senate Special Committee on Budget.
400		VOTE: 5-0-0
	Chair Shields	Hearing no objection, declares the motion CARRIED.
406	Chair Shields	Adjourns the meeting at 4:50 p.m.

EXHIBIT SUMMARY

- A. SB 310, -14 amendments, Senator Vicki Walker, 11 pp
- B. SB 310, -16 amendments, staff, 9 pp
- C. SB 984, -3 amendments, staff, 4 pp
- D. SB 984, -4 amendments, staff, 4 pp
- E. SB 984, -1 amendments, staff, 4 pp
- F. SB 1003, -3 amendments, staff, 2 pp