

**SENATE COMMITTEE ON BUSINESS, LABOR AND ECONOMIC  
DEVELOPMENT**

January 31, 2001 Hearing Room C  
3:00 PM Tapes 13 - 16

**MEMBERS PRESENT:**       **Sen. Roger Beyer, Chair**  
                                  **Sen. Avel Gordly, Vice-Chair**  
                                  **Sen. Jason Atkinson**  
                                  **Sen. Tony Corcoran**  
                                  **Sen. Ryan Deckert**  
                                  **Sen. Steve Harper**  
                                  **Sen. Charles Starr**

**STAFF PRESENT:**       **Keith Putman, Committee Administrator**  
                                  **Pam Brunell, Committee Assistant**

**MEASURE/ISSUES HEARD:**       **SB 485 Public Hearing**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 13, A</b>		
003	Chair Beyer	Calls the meeting to order and opens public hearing on SB 485.
<b><u>SB 485 – PUBLIC HEARING</u></b>		
040	Meg Reinhold	Director's Office, Department of Consumer and Business Services, Explains how SB 485 came about.
060	John Shilts	Administrator, Workers' Compensation Division. Describes the purpose of Workers' Compensation and how SB 485 furthers this goal. Submits an analysis of changes ( <b>EXHIBIT A</b> ) brought forth in SB 485.
090	Shilts	Reviews Section 1, defining "preexisting condition" and exclusions.
115	Sen. Corcoran	Asks for explanation for the exclusion arthritic conditions.
129	Shilts	Describes the difference in arthritic ailments, preexisting conditions that have not been diagnosed. Narrowing what can be used for claims.
171	Chair Beyer	Recognizes the Mahonia Hall Agreement as background.
189	Shilts	Continues with Section 2 explanation, that the employer bears the burden of proof to deny combined condition disability. Estimates a a 1 ½ % cost increase to employers.
314	Sen. Deckert	Asks what precipitated the proposed changes.
325	Shilts	Relates the borderline claims of on the job injury and pre-existing injuries that were causing the claims to be denied.
345	Shilts	Explains Section 3. Higher paid workers getting higher compensation payments.
363	Sen. Corcoran	Asks why the formula is limited to 40 hours.
377	Shilts	Explains multi-employed workers and limits.
442	Shilts	Describes Section 6 as eliminating the sunset on permanent

		disability rates.
515	Shilts	Reviews Sections 7, 8, & 9 as changing the timelines for insurers to accept or deny a claim to 60 days.
<b>TAPE 14, A</b>		
<b>Malfunction of recorder caused first half of tape 14, A to be a repeat.</b>		
186	Shilts	Continues with Sections 10 and 11, which specifies that claims can be reopened by the Board. Relates significant savings from this reform.
280	Sen. Gordly	Asks about 50% discount.
285	Shilts	Replies how claims involved significant length of time. Used the largest insurer, SAIF Corporation's estimate, and discounted 50%.
338	Shilts	Explains Section 12 as giving workers the right to refuse modified employment without loss of temporary disability benefits in some very specific instances.
363	Sen. Corcoran	Wants example for this change and why it is included.
414	Shilts	Existing law does not address shift change at all.
450	Shilts	Explains Independent Medical Examinations (IME) covered in Section 13. Continues with Section 14, 15, & 16 relating to interim medical benefits and 3 levels of recovery if injury is non-compensable.
<b>TAPE 13, B</b>		
050	Shilts	Reiterates different payment programs.
130	Shilts	Explains Sections 17, 18, 19, and 20 as modifying employer's liability.
160	Sen. Deckert	Inquires why is tort reform in a worker's compensation bill.
165	Shilts	Replies that it is in the realm, worker's compensation is also tort reform.
203	Shilts	Explains Section 23 as deleting sunset.
286	Tim Nesbitt	President Oregon AFL-CIO. Testifies in support of SB 485. Believes the package of reforms is long overdue.
345	Bob Shiprack	Board of Business Trades. Tells the origin of shift change. Reforms are in answer to the nagging problems in the system. Describes the top five complaints that need fixing.
<b>TAPE 14, B</b>		
030	Lisa Trussell	Association Oregon Industries. Believes SB 485 is a fair and balanced compromise favored by AOI, which consists 30% of the private workforce. Goes over three major issues.
200	Sen. Deckert	Asks what areas are most contentious and what needs most work.
207	Nesbitt	Replies that the definition of preexisting conditions and reference to limiting effect and effective dates.
233	Trussell	Says another area needing work is the arthritis conditions. Nothing needs to changing, just new wording.
237	Sen. Harper	Asks about rates changing for employers.
255	Trussell	Explains that work needs to be the primary need for treatment in order to be compensable. Believes that this compromise protects the foundation laid in 1990.
350	Shiprack	Replies that experts did the rating. Three fiscal analysis, National Council on Compensation Insurance (NCCI), who rates workers' comp in 34 states, Workers' Compensation Department, and SAIF Corporation.
410	Dan Dziuba	Oregon Trial Lawyer Association (OTLA). Explains
<b>TAPE 15, A</b>		
003	Dziuba	Continues explains ELL. Testifies against Sections 17, 18, 19 and

		20 in SB 485.
066	Dziuba	Continues with examples. Explains % of negligence. Pure form comparative negligence.
145	Steve Piucci	Attorney, Testifies in opposition to Employer Liability Section of SB 485. Current law promotes settlement Gives example of Dave O'Connor's accident and settlement. Cites 183 citations from OSHA.
270	Dave O'Connor	Cites example of his accident and injury and responding results. Testifies against modifying SB 485, Section 17, 18, 19, and 20.
300	Chair Beyer	Asks about numbers.
315	Dziuba	Replies with figures.
380	Ross Dwinell	Oregon Self-Insured Association. Testifies on the Sunset issue.
<b>TAPE 16, A</b>		
040	Greig Lowell	Oregon Self-Insured Association. Questions whether WC's should be first payer. Opposes SB 485. Workman Compensation should not be the primary payer. Change in Section 10 is not advisable.
255	Dave Wheeler	Senior Staff Consultant, PCC Structural, Inc. Testifies that the problems might not be legislative but administration is problematic. Look at the costs of the errors in faulty denials. The system is not broken but not being handled right <b>(EXHIBIT C)</b> <a href="http://www.cbs.state.or.us/external/imd">http://www.cbs.state.or.us/external/imd</a> Workers' Compensation Claim Compensability and Denial.
<b>TAPE 15, B</b>		
030	Wheeler	Continues in disagreement with the changes proposed by SB 485. Supports interim payment for workers. <b>(EXHIBIT D)</b>
156	Wheeler	Declares that garnishments are very bad.
233	Chair Beyer	Distributes a list of answers from the legal community.
259	Chair Beyer	Closes the public hearing
272	Chair Beyer	Adjourns meeting at 6:20 PM.

Submitted By,

Reviewed By,

Pam Brunell  
Committee Assistant

Keith Putman,  
Committee Administrator

**EXHIBIT SUMMARY**

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