

HOUSE COMMITTEE ON AGENCY PERFORMANCE & OPERATIONS

April 13, 1999 Hearing Room E

8:30 a.m. Tapes 51 - 53

MEMBERS PRESENT: Rep. Jane Lokan, Chair

Rep. Kathy Lowe, Vice-Chair

Rep. Betsy Close

Rep. Dan Gardner

Rep. Tim Knopp

Rep. Jeff Kruse

Rep. Bob Montgomery

Rep. Kitty Piercy

STAFF PRESENT: Pat Zwick, Administrator

Susan M. Pettey, Administrative Support

MEASURE HEARD: HJR 57 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.

TAPE/#	Speaker	Comments
TAPE 51, A		
004	Chair Lokan	Opens meeting at 8:40 a.m., and opens public hearing on HJR 57.
<u>HJR 57 PUBLIC HEARING</u>		
022	Pat Zwick	Committee Administrator. Explains provisions of HJR 57.
047	Rep. Judith	House District 52. Speaks in support of HJR 57. Indicates that an amendment

	Uherbelau	relating to task force membership is forthcoming. Explains that HJR 57 creates an eight-member interim task force to evaluate whether the State Accident Insurance Fund (SAIF) Corporation should be privatized or returned to its former status as a state agency.
097	Rep. Uherbelau	Explains reasons for sponsoring HJR 57. Describes the history of SAIF Corporation.
139	Rep. Uherbelau	Discusses state agency and quasi-state agency status. States that SAIF does not pay taxes, and is not subject to state regulations. Comments that SAIF gets the benefits of being connected to the state, but bears none of the burdens.
159	Rep. Uherbelau	Indicates that until 1990, SAIF was considered the insurer-of-last-resort. Claims that during this period, SAIF caused eight to ten thousand small businesses to lose their coverage, and then required them to reinsure through the higher-risk insurance pool at increased rates. Comments on the workers' compensation system within SAIF Corporation. Cites SAIF's claim acceptance rate compared to private insurers.
170	Rep. Lowe	Asks for the definition of insurer-of-last-resort.
178	Rep. Uherbelau	Explains that it was a three-way system: Self-insured, private insurance, or SAIF. If insurance was unavailable, SAIF would provide insurance.
199	Rep. Uherbelau	Discusses SB 1198, which would allow SAIF to opt out of public records disclosure.
225	Rep. Uherbelau	Describes SAIF insurance rates. Comments on SAIF's relationship with the state. Indicates that SAIF's status needs to be clarified.
259	Rep. Uherbelau	Discusses misleading statements in the Associated Oregon Industries' (AOI) "action alert" communication. Urges members to address HJR 57 on its merits.
262	Rep. Close	Asks if there was a 1994 task force on SAIF.
264	Rep. Uherbelau	Answers that there has been more than one task force. Describes the difference in the prior task force assignment and HJR 57. Indicates that the 1994 task force studied various issues.
272	Rep. Close	Asks for the conclusions of the 1994 task force.
278	Rep. Uherbelau	Replies that she does not remember the results.
285	Rep. Close	Asks if it is fair to say that this issue has been studied to varying degrees.

293	Rep. Uherbelau	Responds affirmatively.
297	Rep. Close	Asks if a new task force found that SAIF should be privatized, how would that effect Rep. Uherbelau's law practice.
301	Rep. Uherbelau	Replies that she no longer practices workers' compensation law.
304	Rep. Close	Asks if Rep. Uherbelau can choose to practice workers' compensation law in the future.
307	Rep. Uherbelau	Responds that she is licensed in Oregon and can practice anything she chooses.
310	Chair Lokan	Asks how SAIF would operate differently if it were a private company versus a state agency.
315	Rep. Uherbelau	Emphasizes the importance of a system that operates fairly for all parties. Explains that if SAIF were privatized, there would be a truly competitive market. Remarks that SAIF would have to pay taxes, and as a state agency, would be subject to open meetings and open records law.
321	Rep. Uherbelau	Comments that restructuring will provide benefits to the system.
328	Rep. Piercy	Mentions that maintaining SAIF's status quo is not an option under HJR 57. Asks what will happen if a task force recommends SAIF remain status quo.
333	Rep. Uherbelau	Responds that the 71 st Legislature can accept or reject that recommendation.
348	Larry Hollen	President, American Home Insurance Company, a subsidiary of American International Group (AIG). Describes AIG as one of the largest insurance companies in the world, and the largest international insurance company in the United States. Speaks in support of HJR 57.
409	Hollen	Explains the criteria that assist AIG in determining where to write business. Comments that Oregon has been the model state for reformed workers' compensation since 1990. Indicates that Oregon has a system for writing accounts that nobody else wants to write. Describes the residual market system, separate from SAIF. Claims that everyone is not on a level playing field in Oregon.
457	Hollen	Indicates SAIF is a fairly well-run company in terms of delivering services to the injured worker, although more expensive. Describes SAIF's pricing structure. Claims that AIG cannot write competitively with SAIF. Adds that AIG is one of the most efficient and cost-effective carriers in the United States.
TAPE 52, A		

053	Hollen	Claims that SAIF's market share is 38%. Believes this percentage is not a true reflection of their power in the market. Discusses account types. Talks about SAIF's \$2.5 billion assets, a large portion of which are the reserves. Claims that, compared to competitive companies, the assets represent a disproportionate amount of its writings. Indicates that these assets have accumulated due to SAIF's protected state-agency status, and also because of its conservative reserve practices. Refers to SAIF's reports stating they reserve more than necessary. Discusses tax-free investments relative to the asset base.
080	Rep. Lowe	Inquires what this means in terms of an individual claim. Asks for an example of excess reserves.
084	Hollen	Replies that SAIF can accumulate money and use this "war chest" to compete against others.
088	Rep. Lowe	Asks what this means to an individual claim.
091	Hollen	Answers that it does not affect an individual case. Comments that SAIF is setting aside more than necessary. Adds that SAIF can invest the excess reserves at much higher yields than the rest of the industry because of the tax advantage they have as protected state-agency status.
103	Chair Lokan	Asks about SAIF's pricing and dividend structure.
108	Hollen	Comments on SAIF's ability to affect price, which is not reflective of cost.
114	Chair Lokan	Asks if SAIF accurately portrays its costs.
120	Hollen	Replies that SAIF does not reflect proper lost-cost, plus the expenses to run the operation. Describes the effect as SAIF driving the market because they can write any piece of business they choose. Quotes a January 28, 1999, SAIF publication entitled <u>Understanding the Value of SAIF</u> : "SAIF leads the market. When SAIF lowers rates, other carriers are forced to follow suit in order to maintain market share." Believes that this "forcing" is not stable over the long run. Indicates that SAIF can underprice for just so long, and then it must be corrected. Claims that when the adjustment comes, it can be traumatic.
153	Rep. Piercy	Asks if SAIF should be privatized and compete, or totally public.
158	Hollen	Opines that SAIF should be a fully privatized company.
163	Rep. Close	Asks for clarification of the conservative reserve policy. Asks if AIG is prohibited from practicing the same conservative reserve policy.
178	Hollen	Replies that AIG could build the same capital, but being a public company and competitive, would not. Talks about tax implications relative to an excess reserve. Indicates the best alternative for long-term stability is to privatize SAIF,

		and return the excess capital to the ratepayers.
189	Rep. Montgomery	Comments that SAIF's current share of the market is 38%. Asks what percent of the market SAIF had five or ten years ago.
191	Hollen	Answers that the share fluctuated from 20% to 40%. Comments on similar legislation in other states.
202	Peter Gorman	Alliance of American Insurers (AAI). Describes AAI as a national property and casualty trade association of 300 insurance company members. Speaks in support of HJR 57. Submits and discusses handouts (EXHIBIT A). Describes SAIF's statutory advantages over private insurers.
248	Gorman	Explains residual market pools, which assign-out high-risk employers randomly, based on the market share of each company. Adds that losses are pooled. Indicates that this system eliminates the need for a state fund.
286	Gorman	Describes the numerous advantages the state has provided to SAIF Corporation. Questions what will happen to the workers' compensation system if this is allowed to continue.
312	Gorman	Discusses competition in the marketplace. Explains that history demonstrates that in those states with limited workers' compensation offerings with a single state fund, rates are higher than in competitive states. Describes the insolvency of monopolistic funds in states where writing insurance is allowed only through a state fund. Discusses the potential for state insolvency this creates.
353	Gorman	Mentions SAIF's \$2.5 billion surplus. Indicates that in 1977, for each dollar taken in, SAIF had \$2 in liquid surplus to pay claims, six times the industry standard. Explains the industry standard reserve practice.
391	Gorman	Refers members to charts (EXHIBIT A, pg. 2).
428	Gorman	Continues explaining charts (EXHIBIT A, pp. 3, 4).
443	Rep. Lowe	Asks for the expense ratio industry standard.
448	Gorman	Responds, approximately 20-22% in private industry, which is related to claims, reviewing provider bills, setting up permanent settlements, paying indemnities, et cetera.
470	Rep. Lowe	Asks if this includes overhead.
472	Gorman	Responds affirmatively.

478	Rep. Lowe	Asks what is included in overhead expenses.
483	Gorman	Replies, nonallocable expenses, such as building costs, and top executive salaries not directly related to paying claims.
502	Chris Davie	Represents State Accident Insurance Fund Corporation. Speaks in opposition to HJR 57. Submits and summarizes written testimony (EXHIBIT B). Points out that SAIF has undergone at least 16 separate, major external examinations. Indicates further examination of SAIF is unnecessary. Adds that the principal opposition to SAIF in its present configuration comes from the private insurance industry. Refers to the 1994 task force, which made no recommendations for change.
TAPE 51, B		
073	Rep. Piercy	Asks if the previous examinations of SAIF included the same issues as HJR 57, regarding privatizing or state-agency status.
080	Davie	Replies that he is unsure of the charge of the earlier task force.
097	Davie	Discusses Secretary of State audits.
104	Chair Lokan	Asks if the reserve amount was an issue raised in any of the audits.
110	Davie	Answers yes. Indicates that the reports usually state that SAIF's reserves are conservatively estimated. Discusses cost-of-claims projections.
124	Chair Lokan	Asks if all companies are required to project the cost of claims.
129	Davie	Responds affirmatively. Discusses audits relative to cost reserves. Describes the effects of public uncertainty regarding the status of SAIF Corporation.
155	Davie	Describes the history of SAIF Corporation.
181	Chair Lokan	Asks if competition would create a level playing field relative to premiums. Asks if SAIF can keep low rates if it is privatized.
185	Davie	Answers if SAIF were privatized, its motives would change. Describes SAIF's statutory responsibility as making coverage available to as many employers as possible, as reasonably as possible. Indicates that private companies have one motive: To make a profit. Discusses competition in the marketplace.
239	Davie	Explains the assigned risk pool. Indicates that when SAIF became a public agency in 1980, they had over 50% of the market; today it is less than 33%.

		Comments on the availability and affordability of insurance (EXHIBIT B, pg. 3).
284	Davie	Continues testimony about market share and stability.
312	Davie	Continues testimony in opposition to HJR 57. Indicates that SAIF is causing the market to operate the way the Legislature intended.
332	Davie	Explains that SAIF is regulated differently from private insurance companies, but has the same basic regulatory structure. Indicates SAIF pays no federal taxes. Describes SAIF's state tax obligations. Comments that SAIF is owned by the state, and whatever money SAIF makes, accrues to the benefit of the state and to the policyholders. Adds that SAIF is currently subject to open records and meeting laws.
359	Rep. Montgomery	Asks if SAIF writes 64% of the assigned-risk pool.
364	Davie	Replies that, out of the business that left the assigned-risk pool in 1997, SAIF writes 67%.
367	Rep. Gardner	Asks if there is an effort under SB 1198 to exempt SAIF from disclosure.
375	Davie	Replies that is correct.
382	Rep. Gardner	Asks for SAIF's 1998 expense ratio.
388	Davie	Answers, approximately 40%. Gives comparison with Liberty Northwest of 28%. Discusses claim costs.
397	Rep. Gardner	Asks for the expense ratio for 1998.
401	Davie	Offers to provide that information.
429	Trisha Connors	National Association of Independent Insurers. Speaks in support of HJR 57. Submits and summarizes written testimony (EXHIBIT C). Indicates that SAIF pays no federal tax on investment income. Adds that SAIF is not subject to the same cost regulation as private insurers. Indicates that SAIF is not pricing policies even close to the cost of providing the product.
463	Mark Hall	Vice-President, Argonaut Insurance, Oregon Division. Speaks in opposition to HJR 57. Submits and summarizes written testimony (EXHIBIT D). Summarizes the problem as SAIF providing workers' compensation insurance at such deep discounts, Argonaut is unable to compete.

TAPE 52, B

054	Hall	Continues testimony in opposition to HJR 57. Discusses surplus reserves, on which SAIF pays no income taxes.
080	Hall	Questions whether SAIF or the legislature should decide how the surplus should be spent.
088	Rep. Lowe	Asks who "gets the subsidy."
090	Hall	Responds that in the market Argonaut can compete, it is across the board and can vary widely. Indicates that SAIF can be selected as an insurer-of-last resort, and make the subsidy whatever they choose.
104	Rep. Lowe	Requests a list of the subsidy over the last four years to review. Asks if that is available.
107	Chair Lokan	Indicates that request can be made of SAIF.
113	Rep. Lowe	Suggests a 10-day time limit to receive that information.
136	Lisa Trussell	Associated Oregon Industries (AOI). Speaks in opposition to HJR 57. Submits and summarizes written testimony (EXHIBIT E). Explains reasons that selling SAIF and/or returning it to state agency status would cause insurance rates to increase.
189	Rep. Lowe	Comments on earlier testimony that suggested that if SAIF drives out competition and becomes monopolistic, states that have done so experience insolvent insurance plans. Adds that if this continues, market conditions may change. Asks Ms. Trussell to comment on this.
213	Trussell	References a January 1999 report by Consumer & Business Services. Comments that this has happened over a 35-year period.
228	Rep. Lowe	Asks how much AOI has received, with business partnerships and premiums/dividends, in the last two years.
234	Trussell	Indicates that she does the "policy stuff" and does not know.
238	Rep. Lowe	Asks if that information can be provided.
242	Trussell	Indicates she will check.

251	Brad Witt	Secretary-Treasurer, Oregon AFL-CIO. Appearing in a "cautionary mode" with respect to HJR 57. Submits and summarizes written testimony (EXHIBIT F).
272	Witt	Discusses the necessity of providing insurance to small businesses. Comments on the assigned risk pool. Indicates that the AFO-CIO carries insurance with SAIF Corporation. Opines that privatization will lose an element critical to workers' compensation coverage in Oregon.
293	Rep. Piercy	Asks about claim approval percentages.
303	Witt	Describes AFL-CIO historical objection to the way SAIF handles claims. Indicates that there has been an "exceedingly dramatic" turnaround under the current structure in the last four years.
332	Joe Gilliam	Oregon Chapter, National Federation of Independent Business. Speaks in support of HJR 57. Submits handouts (EXHIBIT G). Talks about unfair competition. Discusses SAIF's tax-free advantages. Claims that SAIF's pricing is different than their rates (EXHIBIT G, pg. 1). Explains the differences relative to competition.
380	Gilliam	Urges members to read the newspaper article (EXHIBIT G, pg. 2). Quotes: "We are here to make it hard for other insurers to make a profit."
430	Gilliam	Refers to SAIF cutting off insurance to 10,000 small business owners. Indicates there was no market for these businesses to go to. Urges members to ensure healthy competition.
450	Rep. Lowe	Refers to \$192 million that belongs to Oregonians. Asks how to limit how much is used for subsidy.
461	Gilliam	Indicates the complexity of the situation. Explains that the money belongs to policyholders. Comments that policyholders from 1913 to the present have come and gone, but the money is still in there. Asserts this does not justify \$192 million to play with, tax-free. Talks about the state confiscation of \$81 million from SAIF in 1982. Describes the law change in a special session.
TAPE 53, A		
046	Gilliam	Emphasizes to members the necessity of understanding pre-1982 dollars and post-1982 dollars relative to case law.
063	Chris Moore	Attorney; Eugene, Oregon. Speaks in support of HJR 57. Believes that HJR 57 would not affect his exclusive workers' compensation practice. Indicates that, contrary to SAIF's testimony, they do not advocate on behalf of injured workers. Discusses the effects of HB 2022. Addresses SAIF Corporation denial rate. Compares with private insurers and self-insured employers. Finds that SAIF's denial rates run approximately 20-24% of all claims filed. Comments that private insurers deny 13-16%, and the same for self-insured employers. Opines that on

		<p>behalf of injured Oregonians, denial rates should be the industry average instead of 1/3 above.</p>
097	Rep. Piercy	<p>Asks if SAIF must be moved to public-agency status or privatization for changes to occur.</p>
105	Moore	<p>Opines that for changes to occur, it needs to be one or the other.</p>
118	Dave Heida	<p>Staff, Associated Oregon Loggers (AOL), Inc. Speaks in opposition to HJR 57. Represents over 800 small Oregon employers, engaged in the business of contract logging. Describes 500 members as insured with SAIF for many years because of low cost. Discusses the difficulty in finding insurance for contract loggers. Indicates that SAIF has superior claim service.</p>
142	Rep. Piercy	<p>Asks if AOL has a contract with SAIF similar to AOL.</p>
147	Heida	<p>Replies that he does not know. Expresses concern if the study process results in privatization or state agency status. Explains that presently AOL is enjoying a "marvelous" workers' compensation insurance climate: Rates are low and benefits are up for injured workers.</p>
164	John Egge	<p>Private citizen. Indicates he was active in workers' compensation reform in the 1987 session. Explains he served on the Mahonia Hall Task Force that rewrote workers' compensation legislation, and served two years on the Management-Labor Advisory Committee. Indicates he has served as a volunteer member on the SAIF Board of Directors the past two years. Adds that for the past eight years, he has been a member of the NFIB State Advisory Board. Discusses his activities on the SAIF Board. Wants to preserve reforms. Owns and operates a small business.</p>
188	Egge	<p>Presents a perspective from small businesses. Indicates no interest in taking another look at SAIF. Believes that SAIF provides an excellent service to small employers.</p>
208	Egge	<p>Describes the workers' compensation system as the most complex in the state. Explains the impact as higher costs to Oregon employers. Discusses the fiscal impact of privatization.</p>
228	Rep. Lowe	<p>Expresses concern about allegations that lack of competition is causing the system to be insolvent, and eventually may cost small business owners more to insure. Asks for Mr. Egge's comments.</p>
237	Egge	<p>Describes the process as cyclical. Remarks that SAIF is currently enjoying some dramatic success. Feels the bigger risk is eliminating the state fund with respect to competition. Indicates that SAIF has 31% of the market, while private carriers have 52%.</p>
258	Chair Lokan	<p>Asks about the pricing and dividend structure.</p>

262	Egge	Describes the dividend practice at SAIF Corporation. Approves of this mechanism to control the fund, while paying back Oregon employers based on the success of the fund.
389	Chair Lokan	Commends Mr. Egge for the work he has accomplished. Closes public hearing on HJR 57. Adjourns the meeting at 10:25 a.m.

Submitted By, Reviewed By,

Susan M. Pettey, Pat Zwick,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HJR 57, handouts (various charts), Peter Gorman, 5 pp.

B ñ HJR 57, written testimony, Chris Davie, 5 pp.

C ñ HJR 57, written testimony, Trisha Connors, 2 pp.

D ñ HJR 57, written testimony, Mark Hall, 4 pp.

E ñ HJR 57, written testimony, Lisa Trussell, 2 pp.

F ñ HJR 57, written testimony, Bradley Witt, 2 pp.

G ñ HJR 57, handouts (charts and articles), Joe Gilliam, 3 pp.