

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

January 29, 1999 Hearing Room E

8:30 a.m. Tapes 16 - 17

MEMBERS PRESENT: Rep. Roger Beyer, Chair

Rep. Dan Gardner, Vice-Chair

Rep. Tim Knopp, Vice-Chair

Rep. Jason Atkinson

Rep. Bill Morrisette

Rep. Terry Thompson

Rep. Jackie Winters

MEMBER EXCUSED:

STAFF PRESENT: Keith Putman, Administrator

Frances Thomas, Administrative Support

MEASURE/ISSUES HEARD: HB 2154 Public Hearing and Work Session

SB 211 Public Hearing and Work Session

HB 2401 Public Hearing and Work Session

HB 2402 Public Hearing and Work Session

HB 2403 Public Hearing and Work Session

HB 2405 Public Hearing and 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 16, A

002

Chair Beyer

Calls meeting to order at 8:30 a.m.

HB 2154 n PUBLIC HEARING

004

Chair Beyer

Opens Public Hearing on HB 2154.

008

Keith Putman

Committee Administrator. Presents an overview of HB 2154. States there is no revenue impact and the fiscal impact is has already been contemplated in Bureau of Labor and Industry's budget request. Explains no subsequent referral to Ways and Means is required. Explains that HB 2154 funds disabled workers civil rights investigatory and enforcement activities in the Department of Labor with money from the Workers' Benefit Fund.

023

Jack Roberts

Commissioner, Bureau of Labor and Industries (BOLI). Introduces Satish Upadhyay.

026

Satish Upadhyay

Budget Analyst, Department of Administrative Services. Testifies in support of HB 2154. Explains HB 2154 continues funding from the Workers' Benefit Fund for the Bureau of Labor and Industries civil rights division injured workers program. States this program investigates complaints of discriminations against injured workers. Explains the amount needed for the 99-01 biennium, to maintain existing levels of service, is \$466,436.

035

Upadhyay

Reviews the background of HB 2154. Explains the Workers' Compensation Management Labor Advisory Committee (MLAC) was created to advise the director of the Department of Consumer and Business Services (DCBS) on workers' compensation policy issues (**EXHIBIT A**).

064

Roberts

Summarizes history of funding changes.

076

Chair Beyer

Closes the Public Hearing on HB 2154.

HB 2154 n WORK SESSION

081

Chair Beyer

Opens a Work Session on HB 2154.

083

Rep. Gardner

MOTION: Moves HB 2154 to the floor with a DO PASS recommendation.

090

VOTE: 7-0

AYE: In a roll call vote, all members present vote Aye.

	Chair Beyer	<p>The motion CARRIES.</p> <p>REP. THOMPSON will lead discussion on the floor.</p>
100	Chair Beyer	Closes the Work Session on HB 2154.
<u>SB 211 n PUBLIC HEARING</u>		
101	Chair Beyer	Opens a Public Hearing on SB 211.
104	Putman	Explains SB 211. States that a drafting error was discovered in ORS 654.071(2) and SB 211 is designed to correct that error. Explains the one word, change is "director" to "employer."
110	David Sparks	Deputy Administrator, Oregon Occupational Safety and Health Division (OR-OSHA). Explains the process required of OR-OSHA to serve citations for a violations. Presents history of this process (EXHIBIT B).
128	Chair Beyer	Closes the Public Hearing on SB 211.
<u>SB 211 n WORK SESSION</u>		
127	Chair Beyer	Opens a Work Session on SB 211.
128	Rep. Winters	MOTION: Moves SB 211 to the floor with a DO PASS recommendation.
130		<p>VOTE: 7-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p>
	Chair Beyer	<p>The motion CARRIES.</p> <p>REP. KNOPP will lead discussion on the floor.</p>
<u>HB 2401, HB 2402, HB 2403, HB 2405 PUBLIC HEARING</u>		
149	Chair Beyer	Opens a Public Hearing on four bill simultaneously

		<ul style="list-style-type: none"> • HB 2401 • HB 2402 • HB 2403 • HB 2405
157	Brad Witt	Secretary Treasurer, Oregon AFL-CIO. Testifies in opposition of HB 2401. Explains that HB 2401 exempts agricultural employers of 10 or fewer employees from the requirement to have a workplace safety committee. States this is true even for employers with the worst safety records in the industry. States the agriculture industry is highly hazardous.
173	Witt	Refers to a previous comment about the necessity to deal with problems "up front rather than at the end". Concurrs it is better to correct problems without "the heavy hand of government." States that farm workers' safety should be considered no less than any other industry.
198	Witt	Testifies in opposition to HB 2402. Explains a concern for Oregon's responsibility for the safety and health of certain juveniles specified under the Oregon Safe Employment Act. States opposition to excluding the following from the Oregon Self Employment Act as applied to family members specified in the bill: <ul style="list-style-type: none"> • Landscaping and horticultural services • Ornamental shrub and tree services • Greenhouse operations
232	Witt	Testifies in opposition to HB 2403 which excludes seasonal agricultural workers when determining the need for a workplace safety committee. States agricultural workers should not be treated as second class citizens and afforded the same protection as employees in any industry.
241	Witt	States opposition to HB 2405. Believes HB 2405 would destroy the enforcement mechanism behind Oregon's successfully run OSHA program. Explains that the typical employer is inspected on an average of once every 17 years. States it is the mere threat of a citation that maintains honesty.
291	Pete DeLuca	Administrator, OR-OSHA. Testifies in opposition to HB 2401 and HB 2403. States they are primarily the same. Explains that currently OR-OSHA maintains its status as a federally approved state plan. States the intent of the OR-OSHA safety committee rules is to bring labor and management together in an effort to promote a safe and healthful workplaces. Explains that since the safety committee requirement became effective in 1990, the lost workday case incidence rate for Agricultural employers (including forestry and fishing) has declined from 5.8 to 3.8 per 100 employees (EXHIBIT C) (EXHIBIT D) .
320	DeLuca	Explains that HB 2402 would exempt all family members of a corporate agricultural operation. Testifies in opposition of HB 2402. States HB 2402 includes some activities beyond those considered to be farming activities, such as planting trees by the side of a road, putting turf on golf course, currently are not considered farming activities (EXHIBIT E) .

338	DeLuca	States a potential consequence of HB 2403 would be to exempt a farm labor camp from the inspection authority of OR-OSHA.
353	DeLuca	Testifies in opposition to HB 2405. Explains that HB 2405 would prevent OR-OSHA from issuing anything except a "serious violation" citation even if it were the first inspection during a calendar year. (EXHIBIT F) .
374	DeLuca	States that OR-OSHA operates under a federally approved state plan. Explains that HB 2403 and HB 2405 could create a conflict with the Federal OSHA Act referred to in the letter from US Department of Labor, Occupational Health and Safety Administration in Seattle (EXHIBIT F) .
415	Gardner	Asks for clarification of HB 2402 relating to a serious injury, accident or death exempting an investigation by OR-OSHA.
422	DeLuca	Agrees that is OR-OSHA's interpretation.
424	Gardner	Inquires about the definition of a "corporate officer."
430	Putman	Comments the Corporation Division requires a president, secretary and treasurer.
440	DeLuca	Comments about corporate officers.
457	Rep. Winters	Asks for information to be provided about a "corporation" and a "sub s corporation."
464	DeLuca	Comments the bill does not specify one or the other.
469	Rep. Gardner	Inquires about how many "seasonal workers" would be considered in a month under the HB 2403 exemption.
474	DeLuca	Offers to get statistics if available.
482	Rep. Winters	Asks for examples of "other than serious violation" for which OR-OSHA would issue a citation (EXHIBIT F) .
TAPE 17, A		
005	DeLuca	Defines "other than serious violations." Explains with examples.
019	Rep. Winters	Asks if OR-OSHA provides a list of "other than serious violations" to a potential employer to show what might be expected by OR-OSHA inspections.

023	DeLuca	Comments that information is available.
028	Chair Beyer	Asks for specific information regarding first violations and fines.
057	David Sparks	Deputy Administrator, OR-OSHA. Explains the material distributed is information requested at the hearing last week. Clarifies it is statistical information relative to agricultural inspection activity including copies of the citation format. Also includes a list of inspections of agricultural firms from January 1995 through December 1998 indicating the violation and the amount of the fine among other things.
095	Putman	Refers to written testimony under the penalty column (EXHIBIT G). Asks for clarification of how a citation fine is settled.
114	DeLuca	Explains the citation "appeals process" and settlement. States that approximately 85% of the cases that go through the appeals process are settled.
142	Rep. Morrisette	Inquires where the money for the fines goes.
145	DeLuca	Explains the funds go into the Services Fund, which is not part of OR-OSHA's operating budget or general fund.
154	Rep. Knopp	Refers to the printed material, "Inspection of Agricultural Firms....." on page 5 of an organization that was fined \$50,000. Inquires about a violation that warrants a \$50,000 fine (EXHIBIT G).
159	DeLuca	Explains the history of a labor camp in Washington County. Clarifies this was willful violation in a succession of violations. Testifies with examples.
182	Rep. Knopp	Inquires if the fine improved the situation.
184	DeLuca	Testifies the farm labor camp is no longer in operation.
187	Chair Beyer	Continues to discuss the example cited.
224	Rep. Atkinson	Inquires about the process of deciding what operation gets inspected.
228	Sparks	Explains, in this case it was a referral from another state agency. Explains general process of selection for inspections.
243	Rep. Atkinson	Inquires about general agricultural inspections. How does OR-OSHA decide who and when to inspect.

249	Sparks	States there is no advance warning of an enforcement inspection.
285	Rep. Morrisette	Inquires about the extent of inspections relating to complaints about farm workers.
296	DeLuca	States there is some kind of activity when the complaint is received.
305	Rep. Winters	Inquires what percentage of penalties is actually collected.
309	DeLuca	States approximately 85%.
313	Rep. Winters	Inquires about the inspection selection process.
318	DeLuca	States the inspections derive from a random selection basis, complaints, or in event of accident.
340	Beyer	Inquires if an annual inspection of farm labor camps is required.
344	DeLuca	States there is no required annual inspection.
346	Rep. Atkinson	Inquires why OR-OSHA would be against something that would help the small farm operation as stated in HB 2401.
362	DeLuca	States that HB 2401 exempts small farms from the safety committee requirement. Reiterates a safety committee helps employers/employs to identify and understand a potential hazard, and create an atmosphere for improvements/changes resulting in a safer work place.
397	Rep. Atkinson	Discusses personal experiences with safety committees.
440	Rep. Morrisette	References printed material related to orchard operation inspections. Asks what these inspections involve.
445	Sparks	Comments that the most common hazards for an orchard is pesticide related and apparatus/equipment operation related.
485	Chair Beyer	Closes the Public Hearing on HB 2401, HB 2402, HB 2403, and HB 2405.
<u>HB 2401, HB 2402, HB 2403, AND HB 2405 WORK SESSION</u>		
487	Chair Beyer	Opens a Work Session.

TAPE 17, B

001	DeLuca	Suggests a workable substitute for HB 2401 and HB 2403. Comments on conversations with Oregon Farm Bureau about language change suggestions to include the necessity of a safety committee for small farms, clarification on the definition of "small farm," and meetings during off season times.
009	Don Schellenberg	Oregon Farm Bureau. Expresses concern about the paperwork burden for the small farmer not the safety issue of a farm or its employees. Hopes this can be accomplished through the administrative rule process.
029	Chair Beyer	Asks about an expected timeline for these suggestions.
031	DeLuca	Responds that those suggestions can probably be returned in two weeks.
035	Putman	Discusses the requirements of the Administrative Procedures Act.
041	Chair Beyer	Suggests the committee could see the proposed language by February 28 and report back to this committee by March 1. Discusses details of proposed requirements for safety committees of a small farm.
107	Chair Beyer	Continues discussions of proposed language changes. Reiterates a concern for employer/employee safety.
112	DeLuca	Concurs with comments.
115	Chair Beyer	Refers to HB 2402. Asks if there are any proposed changes.
120	DeLuca	Discusses a proposal. Proposes to remove all of the amendments to the statute indicated by HB 2402. Deletes all additional language and at the end of line 5, page 2, add the words, "or farm." This would exempt farms without "subject workers" defined by the Workers' Compensation Act as "family members in a family home" or "family members on a farm." Eliminates the need for the distinction between a corporate farm and an unincorporated farm. Clarifies with examples.
181	Chair Beyer	Discusses HB 2405.
190	DeLuca	Indicates the Oregon Farm Bureau is willing to withdraw HB 2405 if the suggested adjustments can be made to the other bills.
195	Schellenberg	Suggests a willingness to work with the farmers on education. Discusses an opportunity to attend a four-hour safety-training course each year and a consultation every four years resulting in removal from OR-OSHA's inspection scheduling list. Expresses a desire to eliminate the fear factor of inspections

		through education.
215	Rep. Morrisette	Asks for clarification.
234	DeLuca	States an operation would only be inspected if there were a complaint or a serious accident.
293	Chair Beyer	Closes the Work Session on HB 2401, HB 2402, HB 2403, and HB 2405.
301	Beyer	Closes the meeting at 9:53 a.m.

Submitted By, Reviewed By,

FRANCES THOMAS, KEITH PUTMAN,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2154 written testimony, Satish Upadhyay, 1 p

B ñ SB 211 written testimony, David Sparks, 1 p

C ñ HB 2401 written testimony, Peter DeLuca, 7 pp

D ñ HB 2403 written testimony, Peter DeLuca, 2 pp

E ñ HB 2402 written testimony, Peter DeLuca, 2 pp

F ñ HB 2405 written testimony, Peter DeLuca, 4 pp

G ñ HB 2405 written testimony, David Sparks, 45 pp

H ñ HB 2405 written testimony, David Sparks, 1 p