

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 17, 1999 Hearing Room E

8:30 a.m. Tapes 60 - 61

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

STAFF PRESENT: Keith Putman, Administrator

Frances Thomas/Nancy Geisler, Administrative Support

MEASURE/ISSUES HEARD: HB 2793 Work Session

Informational Meeting: Workforce Investment Act

HB 2879 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 60, A		
004	Chair Beyer	Calls the meeting to order at 8:35 a.m. and opens a work session on HB 2793.
<u>HB 2793 WORK SESSION</u>		
014	Keith Putman	Administrator. Presents a fiscal report on HB 2793. Notes that none of the amendments he will discuss have a fiscal or revenue impact. Reports that

		regarding whether having a different minimum wage for persons under age 18 violates the law, federal law starts at age 40 and state law starts at age 18. Neither law applies in HB 2793 since it applies only to minors, who are defined as being under age 18. Notes the \$20 or \$30 mentioned in HB 2793 depends on whether state or federal regulations are applicable. States he received a large stack of petitions and would be glad to make copies for committee members.
039	Putman	Presents the ñ1 amendments (EXHIBIT A). Explains this amendment would ensure the tip minimum wage would never be less than half of the general minimal wage.
045	Rep. Gardner	Inquires if tip employees would not get a raise until the general minimum wage was approximately \$11.00 per hour.
048	Putman	Answers yes.
050	Rep. Gardner	States there appears to be apprehension about voters approving minimum wage increases in the future.
057	Putman	Presents the ñ2 amendments (EXHIBIT B). Explains the term "minor" does not apply to emancipated minors, but to the training wage during the first 60 days of employment of a minor.
066	Putman	Replaces the ñ012 amendments with the ñ12 amendments (EXHIBIT C). Notes this amendment places the ñ1 amendments (EXHIBIT A) and the ñ2 amendments (EXHIBIT B) into a single amendment. Adds it makes the 60-day training period cumulative per employer and makes tip wages subject to a penalty for violations of other provisions of the wage labor laws.
087	Rep. Gardner	Asks if, regarding the 60 days being cumulative, the same employer must be involved.
096	Putman	Answers yes.
100	Rep. Gardner	Notes that if there is a minimum wage violation, the employer can receive up to \$1,000 per incident, but no back pay goes to the employee and they are not reinstated in their job.
104	Putman	Answers he does not know what other penalties apply, but believes what Rep. Gardner said is correct.
107	Rep. Knopp	States he would like to move the ñ12 amendments (EXHIBIT C) into HB 2793.
109	Rep. Knopp	MOTION: Moves to ADOPT HB 2793-12 amendments dated 3/16/99.

111	Rep. Gardner	Objects. Explains this does not give an employee back their job, nor are any back wages returned to the employee. Adds the employees are still affected by the training wage if they change employers.
122		VOTE: 4-3 AYE: 4 ñ Atkinson, Knopp, Winters, Beyer NAY: 3 ñ Gardner, Morrisette, Thompson
123	Rep. Winters	Declares a possible Conflict of Interest.
	Chair Beyer	The motion CARRIES.
127	Rep. Gardner	Presents two amendments to HB 2793: ñ8 (EXHIBIT D) and ñ15 amendments (EXHIBIT E). Notes that in the -8 amendments (EXHIBIT D), the definition of piece rate is changed. Points out there is no need for change, and the original language should be restored. States he would like to move the -8 amendments (EXHIBIT D).
130	Rep. Gardner	MOTION: Moves to ADOPT HB 2793-8 amendments dated 3/15/99.
132	Chair Beyer	Recognizes that Rep. Gardner moves the -8 amendments (EXHIBIT D) into HB 2793. Notes that the -8 amendments (EXHIBIT D) was inserted by the Legislative Counsel. Points to language in HB 2793 on page 2, line 3, regarding "piece rate."
138	Paul Tiffany	Government Relations Manager, Bureau of Labor and Industries. Points out the language "work performed for services rendered" is in the current Code of Federal Regulations. Adds this language reflects both federal and state applications of "piece rate."
143	Chair Beyer	Asks if any change in policy results from changing the definition of "piece rate."
145	Tiffany	Responds there is no change in enforcement of the minimum wage. Adds the Bureau of Labor and Industries looks at all sums earned on whatever basis to determine minimum wage.
152	Rep. Morrisette	States he would be against the motion to move the ñ8 amendments (EXHIBIT D) into HB 2793 and would rather just address HB 2793.
156	Rep. Gardner	Indicates he will withdraw the motion regarding the -8 amendments (EXHIBIT D) and address only the -15 amendments (EXHIBIT E).

159	Chair Beyer	Acknowledges that Rep. Gardner withdraws the motion to move the -8 amendments (EXHIBIT D) into HB 2793.
163	Rep. Gardner	MOTION: Moves to ADOPT HB 2793-15 amendments dated 3/17/99.
165	Chair Beyer	Acknowledges Rep. Gardner moves the -15 amendments (EXHIBIT E) into HB 2793.
168	Rep. Gardner	Explains the -15 amendments (EXHIBIT E) and its impact on Section 5(1) and (2) of HB 2793 regarding minimum wage and tipped/nontipped employees.
178	Rep. Morrisette	Explains he will vote no on the -15 amendments (EXHIBIT E) because he feels it is superfluous.
	Rep. Thompson	VOTE: 2-5 AYE: 2 ñ Gardner, Thompson NAY: 5 ñ Atkinson, Knopp, Morrisette, Winters, Beyer
	Chair Beyer	The motion FAILS.
190	Rep. Knopp	Moves HB 2793, as amended, to the floor with a DO PASS recommendation.
197	Rep. Thompson	Notes that minimum wage is hard on small restaurant owners, but that he will vote no on HB 2793 because he does not believe it will pass the Governor's veto.
213	Rep. Atkinson	States HB 2793 has a long way to go before it passes. Explains he understands the need for making the minimum wage and the tip portion of HB 2793 work. Comments the amount of time required to keep a new employee on the training wage is too long. Adds he will be voting yes on HB 2793 because the tip credit has merit.
243	Rep. Gardner	Comments the voters of Oregon voted HB 2793 in. Adds that many disenfranchised voters are no longer involved in voting because the initiatives they vote for are either overturned by the courts or changed by the legislature. States he will never support a change to the will of the voters in Oregon.
257	Rep. Morrisette	Expresses concern about the impact of HB 2793 on the farm worker. States he will not support HB 2793.
264	Rep. Winters	Mentions she has a potential conflict. Adds it is difficult to let people go on a job, and difficult when there are no resources to hire young people. Indicates the legislature talks about ways to deal with youth problems and the opportunity wage gets more young people engaged. Notes employers have had to eliminate

		young people from their business because of the increase in minimum wage.
280	Chair Beyer	Asks Rep. Winters what her conflict with HB 2793 is.
284	Rep. Winters	Acknowledges she is a restaurant owner and has tip employees.
286	Rep. Knopp	Notes the most compelling testimony on this issue came from waiters and waitresses from tip wage states who said they make more money in a tip wage state than in Oregon. Explains he believes HB 2793 is about wage equity. Adds he will be voting yes on HB 2793.
300	Rep. Knopp	MOTION: Moves HB 2793 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-3 AYE: 4 - Atkinson, Knopp, Winters, Beyer NAY: 3 - Gardner, Morrisette, Thompson
306	Chair Beyer	The motion CARRIES. CHAIR BEYER will lead discussion on the floor.
327	Chair Beyer	Closes work session on HB 2793 and opens informational meeting on Workforce Investment Act.
<u>WORKFORCE INVESTMENT ACT n INFORMATIONAL MEETING</u>		
340	Cam Preus-Braly	Governor's Office of Education and Workforce Policy. Presents the State Comprehensive Workforce Plan (EXHIBIT F). Notes that Oregon's Workforce Development System (EXHIBIT G) concerns putting more qualified Oregonians into quality jobs. Explains the vision of the Workforce Plan (hereinafter referred to as "the Plan"). Notes that the Plan is about improving access for people who want to upgrade their skills relevant to employers and making better connections between employers, the skills they need, and people who are looking for work. Adds the Plan is about accountability.
TAPE 61, A		
010	Preus-Braly	States the Workforce Development System involves alignment of agency strategies, priorities, and budgets, as specified in the Workforce Investment Act of 1998 (herein after referred to as "the Act"). Comments the Act calls for universal access, for the system to be more open in order to allow more people to find jobs, and for meeting the needs of both employers and workers. Refers to (EXHIBIT G, p. 2) regarding partners in (EXHIBIT F) and the shared

		information system. Adds there are many confidentiality and privacy laws in Oregon, and only those people who are willing to be counted are captured in the shared information system. Refers to (EXHIBIT G, p. 3) which explains Oregon's implementation of the Act. Notes all states are required to implement the Act by July of 2000. Moves to (EXHIBIT G, p. 4) which describes accountability. Explains they have been working on performance indicators that include measuring several goals.
055	Preus-Braly	Summarizes the Governor's Office of Education and Workforce Policy is not anxious about implementing the Act. Notes they are well-prepared. States a key part of the Act refers to one-stop career centers, where employers and job seekers can access services in an easy way. Refers to (EXHIBIT G, p. .5) where there is a description of Oregon's one-stop grant. Points to (EXHIBIT G, p. 6) which is a map of one-stop service center sites. Refers to (EXHIBIT G, p. 10) which details the Governor's recommended budget.
101	Sandie Hoback	Administrator, Adult and Family Services (AFS). Notes that AFS administers most of the public assistance programs in Oregon and briefly explains these programs. Notes that Oregon is a national leader in welfare reform, which has been built through strong partnerships. Explains state and local partners create the design of their programs in various communities.
148	Hoback	Notes AFS coadministers the Welfare-to-Work Program with JTPA and provides many important services for job seekers. Clarifies the difference between the Jobs Program and Jobs Plus.
173	Hoback	Explains that after placement through the Jobs Program, participants can receive assistance (EXHIBIT G, p. 8) .
193	Rep. Morrisette	Refers to (EXHIBIT G, p. 10) and inquires whether Oregon is at risk of losing federal dollars if state dollars are not appropriate. Asks about matching funds.
203	Preus-Braly	Replies there are a number of programs which do require a match.
211	Rep. Thompson	Asks if there is a 96% employment rate.
213	Hoback	Replies that 96% of the Temporary Assistance to Needy Families (TANF) caseload is engaged in work preparation activities.
216	Rep. Winters	Inquires if there are plans to assist parents involved in higher education with childcare needs.
224	Hoback	Answers there is a small amount of money to support college students with childcare needs, and there is no expectation to expand that amount.
231	Rep. Winters	Inquires if this is because of the cost or because it is not felt we need to expand support to college students for childcare needs.

234	Hoback	Responds everything comes down to dollars, and the amount of money allocated depends on priorities. Adds there are a lot of issues with daycare that need to be addressed. Adds a number of areas could warrant additional funding, but this must be addressed in the budget.
249	Rep. Winters	Asks if the 250 childcare slots allocated are all federally funded.
252	Hoback	Replies childcare funding comes to Oregon from block grants and requires a general fund maintenance. Notes distinguishing between general funds and federal funds becomes arbitrary.
266	Putman	Asks Hoback to explain the nature of the subsidy involved with the Jobs Plus Program.
270	Hoback	Answers that for AFS recipients, their TANF assistance and food stamp benefit are used to reimburse the employers who are paying the person a paycheck. Explains that the employer is reimbursed for minimum wage and the employer picks up the excess they are paying the employee. Adds their clients receive a better net gain than if they were just on the Cash Assistance Program.
286	Virlena Crosley	<p>Director, Employment Department. Refers to (EXHIBIT G, p. 11) for an overview of what the Employment Department does within the Workforce Development System. Explains their mission and notes they work with many partners to provide their services. States that childcare and its block grant are administered by the Employment Department, and they recognize that childcare is a critical workforce issue. Refers to (EXHIBIT G, pp. 11 and 12) and lists the four areas used by the Employment Department for budget and service delivery strategies:</p> <ul style="list-style-type: none"> • Promoting employment • Developing a workforce • Supporting the unemployed • Promoting safe childcare
357	Crosley	Explains how they accomplish the above strategies. Notes their major customers are job seekers who can either be unemployed, on assistance, or working. Adds they work for employers who need to call workers back after a layoff. Explains the various outcomes and performance measures regarding employment.
397	Crosley	Reports that in the area of Jobs Plus, the Employment Department has made a significant increase in numbers employed and in the number of welfare and unemployment insurance recipients.
TAPE 60, B		
038	Rep. Morrisette	Inquires which programs depend on matching dollars.
040	Crosley	Explains that in the Employment Department there are no matching funds except

		in childcare. Adds most of unemployment insurance and employment service dollars are payroll taxes from employers.
053	Rep. Winters	Asks if there is information on whether people are staying on the job once they secure employment.
056	Crosley	Answers there is the shared information system and they can determine how many people are employed over certain periods.
059	Chair Beyer	Asks the percentage of people continuously employed.
061	Crosley	Responds she does not have this information at hand.
063	Rep. Winters	Asks if Crosley can get that information for the committee.
066	Crosley	Replies yes.
068	Chair Beyer	Inquires if the bullet points (EXHIBIT G, pp. 11-12) are goals or requirements.
071	Crosley	Answers they are goals and, in some cases, requirements.
073	Chair Beyer	Inquires if the bullet points specifically under Description and Type of Services are goals or requirements.
075	Crosley	Reports the items bulleted under Promote Employment (EXHIBIT G, p. 11) are required to be an open labor exchange.
077	Chair Beyer	States he is interested in the item stating the Employment Department will match job openings with qualified applicants. Notes the Employment Department told the committee many of the people sent to jobs are not legal aliens. Asks if these people meet the qualification of being qualified applicants.
082	Crosley	Replies she does not recall stating that many applicants are not legal residents. Notes that qualifications are skills they look at, and there is a problem around whether they can deny access.
087	Chair Beyer	States the employers who use the Employment Department's services report that many of the applicants have not been legal to work. Notes an effort is needed to determine if people are legal to work, such as verifying Social Security numbers.
094	Crosley	Reports the Employment Department has been working with the U.S. Department of Labor on this problem.

099	Roger Bassett	Commissioner, Office of Community College Services in Job Training Partnership Act administration. Notes he is part of a team which is accountable to the committee, the Governor, and the federal government. Refers to (EXHIBIT G, pp. 4 and 7) and explains this denotes where money is being spent in Oregon on workforce investment. Moves to (EXHIBIT G, pp. 14 and 15) and notes this is his area of concern. States community colleges must move people along a continuum to lifelong work, so most of their investment is in people who are preparing for their first job. Adds the relationship between community colleges and their clients preparing for work is a contractual one.
141	Bassett	Explains the role of community colleges. States his mission is to justify why community colleges can make choices to join a state and local partnership. Refers to (EXHIBIT G, pp. 16-17) . Indicates there is a need for state and local communities to approach this client group's needs with flexibility.
166	Bassett	States there is a need to find a new area of power regarding decisions on who gets served and how. Notes JTPA deals with disadvantaged and displaced worker populations. Explains they have a commitment to employers. Adds that under the Act, there is a responsibility to deal with plant closures and ongoing dislocation of workers.
201	Bassett	Reports his staff has a rapid response team to get people back to work quickly in plant closures and other dislocations. Adds the JTPA and the Workforce Investment System under the Act are local delivery systems. Notes that most of the authority will rest locally. Suggests the Act invites the committee's influence on investment to ensure that Oregon's needs are met. Comments the Act emphasizes work as the chief goal for success of the programs. Notes they have an investment budget and work as a team in close cooperation with the Governor. Reiterates they have a commitment to a one-stop network.
246	Bassett	States they are moving toward a broader scope of goals and flexibility to see Oregon's workforce as something other than an eligibility category of clients.
255	Rep. Winters	Inquires if it is fair to say that the partnership practice exists in most of Oregon's counties.
264	Bassett	Responds that it does. Notes that as the authority becomes local, we need to be prepared for the responsibility. Adds that many counties in Oregon are well-prepared to implement the Act.
293	Chair Beyer	Asks if the JPTA will be phased out by the Act.
297	Bassett	Responds this is true. Points out the services and goals the Act requires will make use of the same local services delivery opportunities as JPTA, but provides more flexibility in how they are assembled.
304	Preus-Braly	States she wants to draw the committee's attention to the last few pages of (EXHIBIT G) . Adds Oregon has institutionalized partnerships as a way of doing business, and there is no duplication of effort.

327	Rep. Morrisette	States he is glad St. Vincent DePaul is involved because it is a private nonprofit organization.
340	Chair Beyer	Closes informational meeting on the Workforce Investment Act and calls a recess at 10:00 a.m.
350	Chair Beyer	Reopens meeting at 10:05 a.m. and opens public hearing on HB 2879.
<u>HB 2879 PUBLIC HEARING</u>		
TAPE 61, B		
010	Putman	Explains HB 2879 and fiscal impact.
015	Burton Weast	Western Advocates, representing Oregon Association of Plumbing, Heating, and Cooling Contractors. Testifies in favor of HB 2879. Notes several issues have arisen in the Oregon Apprenticeship Program, and several pieces of legislation have been introduced.
020	John Egge	Co-chair, Oregon State Apprenticeship and Training Council. Testifies in support of HB 2879 (EXHIBIT H) which is a list of union and nonunion committees with a common interest in trying to make the system work better on behalf of apprentices and employers. Adds they have been active in the administrative rules process and would like to give that process a chance to work before they get to the specifics of HB 2879.
048	Trish Conrad	Western Advocates, representing Oregon Apprenticeship Coalition. Testifies in support of HB 2879. Reiterates the Coalition has been active in the administrative rules process. States they would not like to see any action on HB 2879 at this time because the Oregon Apprenticeship and Training Council will have its quarterly meeting on 3/18/99. Notes HB 2879 does not remove affirmative action from apprenticeship in Oregon, nor does it remove the ability to enforce provisions of affirmative actions. Adds HB 2879 is not a debate about the values of affirmative action but about the equitable administration of it. Stresses she hopes they can resolve their issues away from the committee.
064	Jack Roberts	Commissioner, Bureau of Labor and Industries (BOLI). Opposes HB 2879 because the Bureau of Labor and Industries is already subject to the Administrative Procedures Act. Explains fiscal impacts of HB 2879. Notes if the Council were not allowed to enforce affirmative action requirements, they could lose their certification with the Bureau of Apprenticeship and Training. Reports he understands the immediate issue is that the Council may take some action to sanction programs not in compliance with the rules without providing due process protections. States his understanding is this is currently covered by the APA.
099	Roberts	States they are now doing regular reviews and trying to improve the quality of apprenticeship. Explains the only disciplinary action they have taken in regard to affirmative action has been to suspend the right of a committee to admit new

		apprentices when the committee has refused to submit an affirmative action plan. Notes that affirmative action means outreach to underrepresented groups, not quotas or preferences. Comments they do not allow racial or gender preferences.
120	Roberts	Notes outreach into the community is better than recruiting people who never finish the apprenticeship program. Adds they want apprenticeship to work. States there is no need for new administrative burdens on them or other committees.
136	Rep. Knopp	Asks if the Apprenticeship Division is under BOLI at the present time.
140	Roberts	Explains the Apprenticeship Training Division is under BOLI, but the Apprenticeship Council is appointed by the Governor and is the authority for making the rules.
143	Rep. Knopp	Inquires if the Apprenticeship Division was decertified, would the federal government be responsible for affirmative action oversights.
148	Roberts	Answers yes. Adds if the Apprenticeship Division went out of business, the Bureau of Apprenticeship and Training (BAT) would come in and oversee the programs. Explains affirmative action is also subject to the EEOC and the requirements would still be there if the Apprenticeship Division was gone.
160	Rep. Knopp	Notes that BOLI has been working toward streamlining their agency and asks if they would consider handling affirmative action or believe the State of Oregon could do better than the federal government.
163	Roberts	Answers they have discussed this matter. Adds they are convinced they are doing very well in Oregon with apprenticeship, and this might be jeopardized if they were under the BAT.
174	Rep. Knopp	Encourages Roberts to see if this can be resolved through the administrative rule process.
178	Roberts	Responds they will do their best.
193	Chair Beyer	Closes public hearing on HB 2879 and adjourns meeting at 10:22 a.m.

Submitted By, Reviewed By,

NANCY GEISLER, KEITH PUTMAN,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2793 ñ1 amendments, staff, 1 p.

B ñ HB 2793, -2 amendments, staff, 1 p.

C ñ HB 2793, -12 amendments, staff, 2 pp.

D ñ HB 2793, - 8 amendments, Rep. Gardner, 1 p.

E ñ HB 2793, -15 amendments, Rep. Gardner, 2 pp.

F ñ Informational Meeting, State Comprehensive Workforce Plan, Cam Preus-Braly, 68 pp.

G ñ Informational Meeting, Oregonís Workforce Development System, Cam Preus-Braly, 33 pp.

H ñ HB 2879, Oregon Apprenticeship Coalition Membership List