

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 22, 1999 Hearing Room E

8:30 a.m. Tapes 64 - 65

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: Informational Meeting

HB 2826 Public Hearing and Work Session

HB 2439 Public Hearing

HB 2320 Work Session

HB 2742 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 64, A		

003	Chair Beyer	Calls the meeting to order at 8:30 a.m.
004	Chair Beyer	Reviews agenda items.
<u>WORKFORCE INVESTMENT ACT</u>		
015	Chair Beyer	Opens an Informational Meeting.
018	Heidi Neel	Introduces self.
019	Chuck Hobbs	JELD-WIN, national/international forest products firm, Klamath Falls. Affiliated with non profit organization, American Institute for Unemployment. Explains the state supported dependent program is in a downward use trend because of Workforce Investment Act. Relates the history of welfare system. States the genesis of the Workforce Investment Act (WIA) came from the 1996 Welfare Reform Act and the Temporary Assistance to Needy Families (TANIF) program. States the common thrust of the welfare reform movement is "work first." Explains.
075	Heidi Neel	JELD-WIN. Gives a brief overview of the federal Workforce Investment Act (WIA). States the WIA presents Oregon's legislature with several opportunities: <ul style="list-style-type: none"> • Re-energize employers • Help Oregonians climb the wage ladder Streamline and simplify services at both the local and state level.
113	Neel	States the legislature can further reduce the number of welfare dependant people by the following: <ul style="list-style-type: none"> • Continue to reduce TANIF case load by employing "work first" • Increase job placements and the rate at which those placements are made • A 12 month job retention • Streamline state and local services with a "one stop" at the state level
126	Neel	Suggests integrated programs operated by a proven state agency. Explains that codifying and strengthening partnerships would accomplish integration.
142	Hobbs	Refers to charts: <ul style="list-style-type: none"> • Shows a five year range of unemployment benefit payments • Shows a five year decline in the TANIF case load
168	Hobbs	Explains differences between the two types of case loads. States that the statistics clearly show the appropriate department to administer this program.
196	Rep. Thompson	Expresses concern that all parts of the state will be able to handle a program that will further tax a department already overstressed.

212	Hobbs	States Adult and Family Services (AFS) will be able to handle the case load. Comments the Employment Department would not be replaced. Explains AFS has been successful and has a smaller case load than five years ago.
236	Rep. Thompson	Asks how AFS's work will fit with Employment Department.
239	Hobbs	Elaborates on agency cooperation for specific programs.
259	Chair Beyer	Closes the Informational Hearing on the Workforce Investment Act.
<u>HB 2826 PUBLIC HEARING</u>		
265	Chair Beyer	Opens a Public Hearing on HB 2826.
270	Keith Putman	Committee Administrator. Explains HB 2826. Comments on fiscal impact.
290	Rep. Dan Gardner	District 13. Testifies as a co-sponsor of HB 2826.
298	John Gervais	National Electrical Contractors Association (NECA). Testifies in support of HB 2826. Explains the need for legislation to authorize a lay representative (where currently an attorney is required) to appear for a party in proceedings conducted by the Department of Consumer and Business Services (DCBS) and other enforcing agencies (EXHIBIT A).
370	Gervais	Cites numerous examples.
393	Rep. Atkinson	Asks about the requirement for an attorney's presence.
396	Gervais	Explains corporations cannot represent themselves and must have an attorney.
402	Rep. Atkinson	Discusses the examples cited.
406	Gervais	Explains there are approximately 50 civil penalty situations reviewed a month.
434	Jim Hanson	Manager for the Regulatory Services Section of the Building Codes Division. Testifies in a neutral position on HB 2826.
445	Rep. Atkinson	Comments on the requirement for attorney representation of a client in a highly technical field. States the client is more knowledgeable of codes and laws than the attorney. Uses an electrician as an example.
450	Chair Beyer	Closes the Public Hearing on HB 2826.

HB 2826 WORK SESSION

451	Chair Beyer	Opens a Work Session on HB 2826.
453	Rep. Gardner	MOTION: Moves HB 2826 to the floor with a DO PASS recommendation.
460	Rep. Gardner	States a Conflict of Interest. Explains he is a licensed electrician.
464		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 ñ Morrisette
	Chair Beyer	The motion CARRIES. REP. GARDNER will lead discussion on the floor.
475	Chair Beyer	Closes the Work Session on HB 2826.

TAPE 65, A**HB 2439 PUBLIC HEARING**

016	Chair Beyer	Opens a Public Hearing on HB 2439.
045	Putman	Presents a proposed ñ1 amendment dated 3/17/99 (EXHIBIT B). Explains as follows: <ul style="list-style-type: none">• Deletes the emergency clause and all retroactivity clauses• Deletes reference to any agencies other than the Employment Division• Excludes non-profit organizations, state, and local political subdivisions• Shifts the burden of proof (that an individual is an employee) from the Director to being a rebuttable presumption.
048	Gary Eschmeyer	Testifies on behalf of Nancy E. Kaib (EXHIBIT C). Comments about federal funding in reference to independent contractors. Comments about legislative intent and the application of current statute.
094	Eschmeyer	Comments on employment versus unemployment.

107	Putman	States Legislative Counsel based this amendment on discussions with Nancy Kaib and Rep. Mannix.
118	Rep. Gardner	Asks if federal conformity issues have all been addressed.
119	Putman	Refers to a letter from the bill drafter. States the intent is to resolve those issues.
127	Annette Talbott	Legislative Coordinator, Employment Department. Introduces Donna Hunter, Manager, Tax Section. Testifies in opposition to HB 2439. Comments on concerns for conformity issues.
139	Talbott	States the issues of concern: <ul style="list-style-type: none"> • "Burden of proof to a rebuttable presumption" • Guaranteed status as an individual contractor (new sub-section 4) • Presumption that the Employment Department is bound by another agency status judgement • Suggested language change (new sub-section B) to "service under the contract" • Retroactivity
225	Talbott	Concludes testimony. Recaps there are three federal conformity issues in this draft.
228	Rep. Gardner	Asks what repercussions exist when there is a federal non-conformity issue.
230	Talbott	Jeopardizes a biennial federal administrative grant worth \$90,000,000 and Oregon employers' tax offset against the federal tax.
237	Putman	Asks if the only loss of funding is for proper and efficient administration as it applies to these contracts.
243	Donna Hunter	Manager, Unemployment Insurance Tax Program, Employment Department. States the loss of the Employment Division's administrative grants under the federal Social Security Act, Section 303 equally \$90,000,000. Explains the retroactivity clause would offend the withdrawal standards of the Federal Unemployment Tax Act causing a \$900,000,000 loss of federal offset for employers.
272	Chair Beyer	Requests copies of the correspondence with the federal agencies.
276	Chair Beyer	Closes the Public Hearing on HB 2439.
<u>HB 2320 WORK SESSION</u>		

285	Chair Beyer	Opens a Work Session on HB 2320.
301	Jennifer Webber	Oregon Workers Compensation Attorneys, and the Workers Compensation Section of the Oregon Trial Lawyers Association. Testifies on HB 2320. States some concerns about the proposed ñ1 amendment (EXHIBIT D) .
340	Chair Beyer	Discusses the Legislative Counsel amendment draft (EXHIBIT E) .
361	Rep. Gardner	Asks to have intent qualified by Legislative Counsel.
383	Lisa Trussell	Associated Oregon Industries. Testifies in agreement with the ñ1 amendments dated 3/5/99.
398	Pete LeDuca	Administrator, Oregon Occupational Health and Safety Division (OR-OSHA). Testifies in agreement with the ñ1 amendment.
421	Chair Beyer	Asks if the ñ1 amendment to HB 2320 provides for equal treatment of private consultations as it does to public consultations.
455	Doug McCain	Legislative Counsel. States that under ORS 192.502 any private consultation report would only be protected once it is submitted to the public agency.
475	Rep. Gardner	Asks could employees access information about hazardous chemicals used in the workplace be diminished under ORS 654.760 1A.
TAPE 64, B		
016	Chair Beyer	Recesses the Work Session on HB 2320.
<u>HB 2742 WORK SESSION</u>		
022	Chair Beyer	Opens a Work Session on HB 2742.
023	Putman	Presents overview of HB 2742. Introduces the ñ1 amendment dated 3/17/99 (EXHIBIT F) .
030	Rep. Gardner	MOTION: Moves to ADOPT HB 2742-1 amendments dated 3/17/99.
		VOTE: 6-0 EXCUSED: 1 ñ Morrisette

	Chair Beyer	Hearing no objection, declares the motion CARRIED.
033	Rep. Gardner	MOTION: Moves HB 2742 to the floor with a DO PASS AS AMENDED recommendation.
036		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Morrisette
	Chair Beyer	The motion CARRIES. REP. ATKINSON will lead discussion on the floor.
046	Chair Beyer	Closes the Work Session HB 2742.
047	Chair Beyer	Declares the committee at ease.
<u>HB 2320 WORK SESSION</u>		
048	Chair Beyer	Reconvenes the Work Session on HB 2320.
049	McCain	Explains that the employer has a responsibility to comply with rules adopted by the agency under 654.760. States the bill would protect any consultation dealing with workplace safety issues by private companies.
061	Rep. Gardner	Asks if HB 2320 diminishes the employees access to knowledge.
063	McCain	States the employer consultation report and documentation is protected. Provides no access to consultation report.
071	Chair Beyer	Asks does HB 2320 protect a private consultation and more or any less than one done by OR-OSHA.
072	McCain	States he does not believe it does.
078	Rep. Knopp	MOTION: Moves to ADOPT HB 2320-1 amendments

		dated 3/5/99.
		VOTE: 6-0 EXCUSED: 1 - Morrisette
	Chair Beyer	Hearing no objection, declares the motion CARRIED.
081	Rep. Knopp	MOTION: Moves HB 2320 to the floor with a DO PASS AS AMENDED recommendation.
084		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Morrisette
	Chair Beyer	The motion CARRIES. REP. WINTERS will lead discussion on the floor.
095	Chair Beyer	Adjourns the meeting at 10:00 a.m.

Submitted By, Reviewed By,

FRANCES THOMAS, KEITH PUTMAN,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2826, Written testimony, John Gervais, 2 pp

B ñ HB 2439, -1 Amendment, dated 3/17/99, Staff, 2 pp

C ñ HB 2439, Written testimony, Gary Eschmeyer, 1 p

D ñ HB 2320, Written testimony, Jennifer Webber, 1 p

E ñ HB 2320, -1 Amendment, dated 3/5/99, Staff, 1 p

F ñ HB 2742, -1 Amendment, dated 3/17/99, Staff, 1 p