

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 3, 1999 Hearing Room E

8:30 a.m. Tapes 45 - 46

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, Administrative Support

MEASURE/ISSUES HEARD: Informational Meeting ñ Oregon Department of Employment

HB 2238 Public Hearing and Work Session

HB 2439 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 45, A		
003	Chair Beyer	Calls the meeting to order at 8:35 a.m., opens an informational meeting.
<u>INFORMATIONAL MEETING ñ DEPARTMENT OF EMPLOYMENT</u>		

005	Kathy LeCompte	Brooks Tree Farm. Describes her business and an incident involving the Oregon Employment Department (OED) that resulted in the hiring of eight illegal farm workers. States concern that OED is not under the same hiring regulations as businesses.
060	Rep. Thompson	Asks how the legal status of prospective employees can be verified.
062	LeCompte	References to (EXHIBIT A) where she has attached a photo copy of two worksheets. Explains the actual hiring process, and how she was able to tell that the employees were illegal.
076	Norbert Keenan	Senior Vice President, J Frank Schmidt & Son Nursery. Introduces Marilyn Becker. (EXHIBIT B)
080	Marilyn Becker	Director of Human Resources J Frank Schmidt & Son Nursery. Explains how an INS audit had caused them to lose 350 of their workforce. Elaborates that this led them to their involvement in the H-2A program on an "emergency basis."
110	Marilyn Becker	Explains how the H-2A program sent illegal aliens to their business.
161	Rep. Thompson	Asks for an explanation of the H-2A program.
165	Keenan	Explains that the H-2A program is a federal program that uses state Employment agencies to fill labor needs. States that his difficulty with the OED is because of structural problems with the H-2A program which does not verify the identification of people they refer.
196	Rep. Morrisette	Asks if Keenan or Becker have any suggestions for reforming the system.
200	Becker	Suggests verifying legal status of referrals.
204	Rep. Morrisette	Asks if they plan on drafting legislation.
208	Chair Beyer	Testifies that it is the committees responsibility to draft legislation. Continues that he had invited testimony in order to make the committee aware of difficulties in verifying the legal status of referred employees. Requested suggestions from Keenan and the committee.
217	Rep. Thompson	Asks whether Keenan's business had received any fines from the INS.
220	Becker	Answers that he has not.
223	Rep. Thompson	Asks the wages paid for nursery work.

225	Becker	Gives hourly wage increments as \$7.34/hr, \$7.48, \$8.00, \$8.75, \$9.50.
230	Keenan	Discusses the process of hiring new workers.
245	Rep. Thompson	Asks about specific circumstances involving the crew at Schmidt's Nursery.
265	Becker	Advises committee on difficulties of hiring unverified, or undocumented workers. Suggests entrapment by OED.
312	Rep. Gardner	Asks for further explanation of circumstances construed as entrapment.
315	Chair Beyer	Requests more detail.
320	Becker	Explains that he believes 50 illegal people were sent to his company as a test.
322	Keenan	Responds.
352	Chair Beyer	Asks if all these people were referred by OED. Asks for explanation of written testimony distributed. (EXHIBIT A)
355	Becker	Answers that these people were referred by OED. Explains number of OED referrals, and the number of referrals which actually lead to employment.
365	Rep. Gardner	Asks for further clarification of those refused employment.
385	Becker	Summarizes that many of the applicants did not know what they were applying for.
402	Keenan	Summarizes high rate of turnover involved. States that a central problem is that many of the OED field offices seem to have little understanding of their business requirements, or are under too much stress to find appropriate jobs for people on unemployment roles.
410	Rep. Gardner	Observes that, "... basically what you are saying is that you feel that the Employment Department should not only send you available people, but people who are suitable for the job as well?"
430	Keenan	Explains that the Employment Department does not have to check availability, or legality of clients. Thus it is necessary for the businesses to go through lengthy process before hiring.
440	Chair Beyer	Asks whether a business is required to provide housing under H-2A program.

445	Keenan	Answers yes. Gives particular rules for providing housing for alien, and domestic workers.
450	Rep. Thompson	Asks if Mr. Keenan has tried private employment services.
460	Keenan	Answers no he has not and explains methods for recruiting employees.
TAPE 46, A		
020	Keenan	Summarizes that the H-2A program is a very costly program for the employer.
025	Salvador Zamudio	Introduces himself as the past president of the OEN Labor committee. States that 1996 was a very hard year to find legal labor due to INS regulations. (EXHIBIT C)
040	Zamudio	Summarizes that the problem is not that there is not labor in the area, but that about 70% of the labor in the area is illegal.
070	Zamudio	States that the H-2A program is so cumbersome that only very large employers can use it because it is so expensive.
100	Zamudio	States that in order for farms to continue to operate in Oregon a larger pool of legal farm workers needs to be created.
116	Rep. Morrisette	Asks for clarification of the 1996 legalization program.
120	Zamudio	Clarifies that he was referring to a program from 1986 that allowed a one time amnesty for farm workers. Explains that these workers have since moved out of the agricultural industry into other fields. This has created a shortage of legal farm labor.
125	Rep. Morrisette	Asks if Mondo believes that this amnesty program would be a good program to repeat.
130	Zamudio	States that it is one good option, but that something would have to be done to keep workers in agriculture.
141	Virlena Crosley	Director, Oregon Employment Department (OED). Explains that employment services does not check the legal status because the "INS told us that employers would still have to do their own I-9 process, that we could not do this for them (the employers)."
160	Crosely	Goes on to explain OED policies and procedures.

200	Chair Beyer	Asks about why citizenship of the unemployed is not verified.
214	Crosley	States that they do ask for a Social Security number, but that they can not refuse to give benefits to someone even if they refuse to give them a Social Security card number.
250	Rep. Winters	Asks if OED knowingly refers illegal aliens.
252	Crosley	Responds that they do not.
257	Rep. Morrisette	Asks what documents are necessary for a background check.
261	Crosley	Responds that there are many documents that could be used for establishing citizenship.
271	Chair Beyer	Asks why proof of citizenship is not asked for.
290	Crosley	Responds that it would take a very great deal of time and money to verify the citizenship of every applicant.
315	Rep. Atkinson	States that he believes that far too much is being made of the extra cost involved in checking the citizenship of applicants.
TAPE 45, B		
010	Rep. Winters	Questions what information is required of an applicant.
012	Crosley	Explains application process.
017	Crosley	Continues discussion about the application.
020	Rep. Winters	Asks if someone not claiming unemployment has to fill out the citizenship section of the form.
022	Crosley	Yes, it is necessary to fill out the citizenship portion of the application.
025	Rep. Winters	Asks if anyone has ever been prosecuted for giving false information.
027	Crosley	Not in last few years, but would have to check if they have ever done so.
030	Rep. Winters	Asks how long Cooper has been with the Employment Department.

031	Kathy Cooper	Manager, Employment Service. States she has been with the Employment Department for about 20 years.
032	Rep. Winters	Questions whether she knows of anyone prosecuted for falsely filling out an application.
035	Cooper	States that Employment Services has never prosecuted anyone for that infraction.
037	Chair Beyer	Asks why they even bother to have them fill out that part of the application.
041	Cooper	Advises for record, that it is important to note for unemployment purposes. States that if a person has given false information they can be prosecuted, and unemployment would be able to recoup benefits paid to that person.
043	Chair Beyer	Questions whether the unemployment division has ever prosecuted for falsely filling out an application.
045	Cooper	States that the unemployment division has prosecuted people for falsifying the application.
048	Chair Beyer	Clarifies that it is just the Employment Department which has not prosecuted.
050	Rep. Morrisette	Suggests that a card be issued to all farm workers that would verify that the card holder is eligible to work as farm worker in state of Oregon.
065	Crosley	States that this option has been looked at as part of the H-2A process.
070	Chair Beyer	Asks about just verifying Social Security card numbers.
105	Crosley	Explains that the tight schedule of the agricultural market makes it very hard to thoroughly examine every person.
120	Crosley	Addresses Sen. Derfler's discussion with J. Frank Schmidt and Oregon Association of Nurserymen about possible Community College classes. States that there are Community College classes in Clackamas County, Mt. Hood, and Chemeketa for experienced nursery association workers.
171	Chair. Beyer	Closes informational meeting,
172	Rep. Thompson	Discusses Sen. Derfler's memorandum.
173	Chair Beyer	Opens public hearing HB 2238.

<u>HB 2238 PUBLIC HEARING</u>		
180	Chair Beyer	Closes public hearing on HB 2238, and opens work session on HB 2238.
<u>HB 2238 WORK SESSION</u>		
200	Sylvia Caley	Oregon Law Center (OLC). States that OLC is a non-profit law firm representing low income people. Testifies against HB 2238. Suggests that the remedy the Employment Department is putting forth is too extreme.
230	Caley	Explains concern that HB 2238 will make it difficult for employees to obtain notice for being discharged.
245	Chair Beyer	States hand-engrossed version will go to legislative counsel. Explains that amendments were agreed to by Bob Shiprack and employment division.
255	Chair Beyer	Closes work session on HB 2238, and opens a work session on HB 2439.
<u>HB 2439 WORK SESSION</u>		
258	Chair Beyer	Calls attention to a letter from Herb Fletcher of the AFL-CIO. (EXHIBIT D)
260	Keith Putman	Committee administrator. Addresses letter from U.S. Department of Labor to the Employment Division.
270	Chair Beyer	Addresses requests of Crosleyís from the US. Department of Labor. States that they answered these requests. (EXHIBIT E)
280	Putman	States that he has met with Rep. Mannix. Explains Rep. Mannixís suggestions.
300	Putman	Continues relating conversation with Rep. Mannix
320	Chair Beyer	States that when the committee receives the HB 2439 amendments they will revisit the bill.
325	Chair Beyer	Closes work session on HB 2439.
237	Chair Beyer	Adjourns meeting at 10:03 a.m.

FRANCES THOMAS, KEITH PUTMAN,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Informational meeting, testimony & chart, Kathy LeCompte, 2 pp

B ñ Informational meeting, written material, Norbert Keenan, 6 pp

C ñ Informational meeting, chart, Salvador Zamudio, 1 p

D ñ HB 2439, letter, Irv Fletcher, 1 p

E ñ HB 2439, written material, Virlena Crosely, 8 pp