

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 8, 1999 Hearing Room E

8:30 a.m. Tapes 49 - 51

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 OR-OSHA Rules on Safety Committee

HB 2598 Public Hearing

HB 2450 Public Hearing and Work Session

HB 3509 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 49, A		
001	Chair Beyer	Calls the meeting to order at 8:35 a.m., and opens an informational meeting.
<u>OR-OSHA RULES ON SAFETY COMMITTEES</u>		

015	David Sparks	OR-OSHA Rules on Safety Committees. Submits an update on HB 2401 and HB 2403. States time-lines for completion. (EXHIBIT A) Explains that the committees are working with the farm federation in order to come to a compromise.
050	Chair Beyer	Asks if safety committees are on schedule.
053	Sparks	Answers yes.
055	Chair Beyer	Closes Informational Meeting. Opens a Public Hearing on HB 2598.
<u>HB 2598 PUBLIC HEARING</u>		
058	Rep. Judy Uherbelau	House District 52. Testifies on history of bill. States that HB 2598 extends workers compensation to foster care workers.
059	Rep. Uherbelau	Submits testimony from Rep. Piercy. (EXHIBIT K)
		Staff distributes EXHIBIT B.
060	Chair Beyer	Recesses Public Hearing on HB 2598. States that the committee will return to the bill as soon as Rep. Piercy arrives. Opens a public hearing on HB 2450.
<u>HB 2450 PUBLIC HEARING</u>		
070	Keith Putnam	Committee Administrator. Updates committee on HB 2450.
075	Bob Shiprack	Oregon Building Trades Council. Testifies in support of HB 2450. Explains that both sides have reached a consensus on the bill. Continues that they do have three amendments to recommend to the bill. <ul style="list-style-type: none"> • Specify that this is a pilot project. • Require that a report be made to the next legislature on the progress of the project. • Clarify that this program remains under state supervision.
125	Shiprack	Continues testimony in support of HB 2450.
185	Lisa Trussell	Associated Oregon Industries. Testifies as a neutral. States concern is about how HB 2450 would be administered. (EXHIBIT C)
214	Pope	Chairman, Management Labor Advisory Committee. Testifies as a neutral. Expresses concern about the "pilot program" becoming an actual program.

255	Dave Fiskum	Associated General Contractors (AGC). Testifies in opposition to HB 2450. States that AGC has not had a chance to review the amendments. Submits EXHIBIT E .
300	Colett Evers	AGC. Testifies in opposition to HB 2450. (EXHIBIT E, page 3). States concerns about "carve outs" and their appropriateness in Oregon. Explains that this might lead to the demise of worker's compensation.
346	Rep. Gardner	Asks if Evers' main concern is that workers compensation would lose members.
349	Evers	Replies that if the existing system works he questions the wisdom of altering it.
355	Kevin Spellman	President, Emerick Construction Company, and Board of AGC. Testifies in opposition to HB 2450. Expresses concerns about "carve outs" that are supervised by Labor Management Trusts. States that there are too many unanswered questions. Believes that this bill would complicate an already complicated system.
390	Fiskum	States that he would like an opportunity to review amendments.
402	David Schaerer	Senior Vice-President, Sedgwick James. Testifies as a neutral. States his concerns about HB 2450. Explains concerns. (EXHIBIT F)
460	Schaerer	States that his testimony was written before any amendments. States that he would support the amendments.
TAPE 50, A		
010	Rep. Morrisette	Asks if this bill will add flexibility.
015	Schaerer	Answers yes.
036	Chris Davie	SAIF Corporation. Testifies as a neutral on HB 2450. (EXHIBIT G). Explains that HB 2450 is basically the same bill that was passed in California. Opines that HB 2450 is poorly written for the needs of Oregon.
060	Davie	Explains that the division of risk liability in workers compensation is not clearly stated in HB 2450. Understands that the proposed amendments would address some of these concerns.
100	Jennifer Webber	Oregon Workers Compensation Attorneys. Testifies against HB 2450. Explains specific concerns about the legal status of ombudsmen (EXHIBIT H).
171	Vice-Chair Knopp	Closes Public Hearing HB 2450, and reopens Public Hearing on HB 2598.

HB 2598 PUBLIC HEARING

221	Grover Simmons	Association of Adult Care Providers of Oregon. Testifies in opposition to HB 2598. (EXHIBIT I) Reads testimony of Sen. Ferroili on HB 3542 from 1997. States that the adult foster care industry can not afford HB 2598.
258	Simmons	Continues testimony. States adult foster care homes will have to reduce benefits in order to pay the increased costs of insurance.
306	Simmons	Addresses the equity issue raised by Rep. Uherbelau. Illustrates differences between Residential Care Facilities (RCF) and Adult Foster Homes (AFH). States that assisted living facilities receive 50-60% more for each patient.
350	Simmons	Remarks that there would be a 24.8 million dollar impact to equalize the difference in payments between AFHs and RCFs.
388	Rep. Gardner	Asks what kind of health care coverage is provided in AFHs.
396	Simmons	States that there is no health care coverage required in AFHs.
399	Rep. Gardner	Asks if this lack of coverage fair.
400	Simmons	Responds.
420	Rep. Gardner	Asks if injured adult health care workers do not receive benefits because they lack health coverage or workers compensation.
432	Rep. Thompson	Asks how the lack of coverage has gone on for so long.
440	Simmons	States that AFHs have been excluded from workers compensation. Explains that he is not opposed to workers compensation for adult foster care workers, but they need to be able to afford it. States that he has talked to Senior Disabled Services, but they can not provide additional funding. Elaborates that AFHs can not afford to pay for health care coverage as long as they are paid 50-60% less then RCFs for taking care of patients.
460	Rep. Winters	Asks how many AFHs are in Oregon, how they are staffed, and how many patients can they have.
470	Simmons	Clarifies that AFHs are limited to no more then five patients, but many homes have less.

TAPE 49, B

--	--	--

025	Rep. Winters	Asks what is typical staff for an AFH.
030	Simmons	States that it is unusual for an adult care facility to have full time employees. Remarks that it is much more common for homes to have part time employees.
045	Rep. Morrisette	Asks for names of adult foster care homes that do carry workers compensation.
050	Simmons	States he does not have that information, but will provide that information later.
060	Rep. Thompson	Asks if employers of part time employees are required to carry workers compensation.
063	Rep. Beyer	States that all employers are required to provide workers compensation regardless of hours.
065	Nelson Grubbe	Governor's Commission on Senior Services. Testifies in favor of HB 2598 (EXHIBIT J) . Speaks to the problems of taking care of older people.
080	Grubbe	Continues testimony in support of HB 2598.
125	Rep. Kitty Piercy	House District 39. Testifies in support of HB 2598. Lists the organizations that support the bill.
160	Azdea	AFH Owner. States he cannot afford to pay workers compensation. States that HB 2598 will put him out of business. Explains levels of care, and the need to get additional help with care of patients.
190	Azdea	Explains that most homes are run by owners, and that only those with 2 or 3 houses have employees.
230	Rep. Gardner	Asks Azdea how many homes he owns, and how many people he employs.
240	Azdea	Replies his wife is a registered adult foster care worker, and he has no employees. Explains that soon he will need part time help. States that it is not possible to keep working day in and out.
268	Pete Flora	AFH Owner. Testifies in opposition to HB 2598. States that liability insurance went up 50% this year, while the cost of living that is paid by the state only went up \$6.00. Feels that large facilities are trying to push smaller owners out of the business.
300	Rep. Morrisette	Questions who is covered by liability insurance.

310	Flora	Replies that his insurance covers residents and their families.
317	Shirlene Ankrum	AFHs Owner. Testifies in opposition to HB 2598. Speaks of the care options that elderly people face. States that individual homes are under very strict rules. Speaks about the equity of care between nursing care facilities and adult foster care home. Details the difference in the ratios between patients and workers for different kinds of facilities, and how it affects the liability costs.
350	Ankrum	States that she does not oppose a fair workers compensation system.
382	Ankrum	Continues testimony in opposition to HB 2450.
394	Rep. Morrisette	Asks what rules govern the kind of patients adult foster care homes may accept.
400	Ankrum	Discusses the three levels (1-3) of care. States that most of the care facilities in Oregon are under the level one guidelines.
412	Rep. Morrisette	Asks at what point is a patient moved to a different facility because of the need for more advanced care.
425	Ankrum	States that they are instructed to move clients to facilities with higher leve of care by outside organizations.
438	Rep. Morrisette	Asks what is the percentage difference between privately paid for patients and Medicaid patients in the AFHs.
454	Putman	States that Senior Services claims to pay for 43% of adult foster care in Oregon.
467	Flora	States that 20% of his own patients are on Medicaid.
<u>TAPE 50, B</u>		
007	Rep. Gardner	Asks for further clarification on levels 1,2, and 3.
010	Ankrum	Explains levels of care.
015	Rep. Gardner	Asks when a patient would be moved to different level.
027	Ankrum	Responds that it depends upon a care evaluation.
030	Putman	Explains "activities of daily living." Explains the more help a patient needs, the higher level of rating.

051	Rep. Winters	Asks who makes the decision about the level of care.
055	Flora	Answers that the condition of a patient is determined by many people.
059	Rep. Morrisette	Asks if there has been any suit filed by an injured worker of an AFH.
065	Ankrum	Replies he does not know.
075	Chair Beyer	Asks if there are any other questions.
079	Rep. Morrisette	Asks if Grubbe could answer a question regarding the cost per month for a relief worker, and define the duties of a relief worker.
087	Grubbe	Responds by explaining that relief worker would be about \$31/month for a once a week visitation. The base wage of a relief worker depends upon how much time they stay with a client.
110	David Nebel	Citizen Coalition for Quality Long Term Care. Testifies in favor of HB 2598. Talks about history of legislation. States that this exception is a result of skilful lobbying by the industry during the 1997 session. Explains that adult foster care workers are not independent contractors. Takes issue with the argument that AFHs are treated differently in pay reimbursement than RCFs. States that reimbursement should not be used as an excuse to except adult AFH owners from workers compensation.
144	Nebel	Addresses costs. Explains that adult care providers in Oregon provide a professional service, and they should treat employees in a professional manor.
171	Rep. Thompson	References the employment term "casual employees." Asks about the numbers of hours an adult foster care worker could work before workers compensation would have to be paid on the basis of hours.
190	Nebel	Responds it is complicated. States that some businesses are not covered.
213	Rep. Thompson	Asks if the watchman in an AFH is covered by workers compensation.
225	Nebel	States that he is not comfortable trying to answer the question because he is not an expert in the field.
230	Ellie Jenny	Testifies in support of HB 2598. Provides personal example. (EXHIBIT L)
288	Rep. Morrisette	Comments about tax credits for private nursing home employers. Explains views on funding.

309	May Dasch	Oregon Chapters of the Alzheimer's Association. Testifies in support of HB 2598. Reads testimony. (EXHIBIT M)
365	Rep. Winters	Asks the number of cases there have been where an adult foster care employee has hired an attorney in order to seek redress against an employer.
370	Dasch	States that she does not know, but that the number is kept low by the relatively low income of workers.
374	Rep. Winters	Asks what is the average wage of adult foster care employee.
384	Dasch	Answers that she does not know, but it is well below minimum wage.
393	Terri Cramer	Oregon Alliance of Senior Health Services (OASHS), Portland and Mt. Angel. Testifies in favor of HB 2598. States as a matter of public policy AFHs should provide workers compensation to their employees.
424	Meredith Cote	Ombudsman, Office of Long Term Care. Testifies in support of HB 2598. Explains that her organization investigates complaints throughout the state. States that AFHs take care of a highly-impaired population. Speaks about levels of care in homes. States that her research contradicts earlier testimony that the majority of homes are level one homes
<u>TAPE 51, A</u>		
005	Cote	Observes that work is demanding and the majority of workers are women working alone.
020	Rep. Winters	Asks if Cote's agency provides an annual report.
025	Cote	Responds that they do, but it is for the federal government. States she would be happy to make it available to the legislature.
036	Jennifer Webber	Oregon Workers Compensation Attorneys. Supports HB 2598. States liability insurance may decrease if all AFHs carried workers compensation.
055	Jerry Manahan	Compliance division, Workers Compensation Division. Clarifies Rep. Thompson's question about "Casual Labor." States that as long as wages do not exceed five hundred dollars in a 30 day period businesses are not required to carry workers compensation.
072	Rep. Gardner	Uses examples for clarification.
076	Manahan	Responds that the total payroll for all employees could not exceed \$500/month.

085	Vice-Chair Knopp	Closes Public Hearing HB 2598. Postpones Public Hearing on HB 3509 for a later date.
088	Vice-Chair Knopp	Adjourns meeting at 10:43 a.m.

Submitted By, Reviewed By,

FRANCES THOMAS, KEITH PUTMAN,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ OR-OSHA, written material, David Sparks, pp. 2

B ñ HB 2598, rate schedule, staff, p. 1

C - HB 2450, written material, Lisa Trussell, pp. 2

D ñ HB 2450, written material, Greg Malkasian, pp.6

E ñ HB 2450, written material, Dave Fiskum, pp. 6

F ñ HB 2450, written material, David Schaerer, pp. 2

G ñ HB 2450, written material, Chris Davie, pp. 2

H ñ HB 2450, written material, Jennifer Webber, pp. 2

I ñ HB 2598, written material, Grover Simmons, pp. 2

J ñ HB 2598, written material, Nelson Grubbe, pp. 2

K ñ HB 2598, written material, Rep. Kitty Piercy, pp. 6

L ñ HB 2598, written material, Ellie Jenny, p. 1

M ñ HB 2598, written material, May Dasch, p. 1