

HOUSE COMMITTEE ON GENERAL GOVERNMENT

April 15, 1999 Hearing Room D

1:15 p.m. Tapes 63 - 65

MEMBERS PRESENT: Rep. Carl Wilson, Chair

Rep. Jason Atkinson, Vice-Chair

Rep. Chris Beck, Vice-Chair

Rep. Jo Ann Bowman

Rep. Ryan Deckert

Rep. Steve Harper

Rep. Bruce Starr

Rep. Terry Thompson

MEMBERS EXCUSED: Rep. Ron Sunseri

STAFF PRESENT: Cara Filsinger, Administrator

Faye D. Trupka, Administrative Support

MEASURE/ISSUES HEARD:

HB 3500 Work Session

HB 3502 Public Hearing

HB 3503 Public Hearing

HB 2892 Work Session

HB 2574 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 63, A		
004	Chair Wilson	Opens meeting at 1:19 p.m. and opens work session on HB 3500.
<u>HB 3500 WORK SESSION</u>		
006	Rep. Harper	MOTION: Moves HB 3500 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Water and Environment.
		VOTE: 6-0 AYE: 6 - Atkinson, Bowman, Harper, Starr, Thompson, Wilson EXCUSED: 3 - Beck, Deckert, Sunseri
	Chair Wilson	The motion CARRIES.
030	Chair Wilson	Closes work session on HB 3500 and opens public hearing on HB 3502.
<u>HB 3502 PUBLIC HEARING</u>		
035	Joe Gilliam	National Federation of Independent Business (NFIB). Testifies in support of HB 3502 (EXHIBIT A). Gives history of NFIB. Explains EXHIBIT A .
085	Gilliam	Explains conceptual amendments, EXHIBIT A , to HB 3502 and HB 3503.
127	Jeff Koch	NFIB. Testifies in support of HB 3502. Explains programs in other states.
177	Koch	States the program's growth has been limited by the competitive nature of workers' compensation in most markets. Says that some companies can not be competitive with State Accident and Insurance Fund (SAIF).
205	Rep. Bowman	Asks how many companies in Oregon provide workers' compensation insurance.
208	Koch	Replies that he does not have that information.

211	Chair Wilson	Points to HB 3502, lines 16, 17, 18 and asks how the proposed amendment will read.
221	Gilliam	Replies it would verify that SAIF distribution formula does not unfairly discriminate.
252	Chair Wilson	Asks if everyone would receive dividends.
263	Gilliam	Responds to question.
270	Chair Wilson	Asks if it would be acceptable if the discrimination is consistent.
273	Gilliam	Replies yes.
275	Chair Wilson	Asks how many companies in Oregon provide workers' compensation insurance.
278	Koch	Replies that he does not have that information.
283	Gilliam	Responds that the information he has does not address that issue.
281	Rep. Bowman	Asks for more information prior to having a work session.
293	Koch	States that the top two carriers of workers' compensation insurance control approximately 50% or more of the market.
300	Chair Wilson	Asks what accounts for the success of the number two firm in the market.
310	Koch	States that Liberty Northwest is a stand alone unit.
320	Gilliam	Points to EXHIBIT A which gives a breakdown of market share by premium.
325	Chair Wilson	Asks about the conceptual amendments term "unfairly" and states that he does not see that word in the statute.
330	Rep. Bowman	Explains that it is in the HB 3503 section.
340	Gilliam	States that it is in the existing language.
350	Rep. Tom Butler	Representative, House District 60. Testifies in support of HB 3502 and HB 3503. Asks if the money collected from policy holders should be used to keep competition out of the State of Oregon.

TAPE 64, A

002	Rep. Bowman	Asks if Rep. Butler thinks the committee should act on HB 3502 prior to clarification of some of the issues raised.
010	Rep. Butler	Replies yes. States that HB 3502 does not restrict SAIF. Says that all companies must establish, in writing, the policy for the use of excess earnings. Indicates that an audit would be required once per year to ensure that the company is in compliance.
037	Chair Wilson	Asks if Rep. Butler will come back for HB 3503.
040	Rep. Butler	Responds no.
042	Chris Davie	SAIF. Testifies in opposition to HB 3502 (EXHIBIT B). Explains how dividends are paid and how insurance companies handle their financial assets.
092	Davie	Explains that there have been no findings of inaccuracy in the distribution of SAIF dividends. States that protection already exists in the statutes.
152	Chair Wilson	Asks if Davie feels comfortable with the way SAIF has used dividends.
154	Davie	Replies that no insurance company may promise a dividend.
160	Chair Wilson	Asks what SAIF's relationship is with the State of Oregon.
164	Davie	Replies that SAIF is a public corporation.
171	Chair Wilson	Asks what in SAIF's history qualifies as a special relationship.
173	Davie	Replies that before 1965, SAIF was the only insurance company to provide workers' compensation for the State of Oregon.
183	Chair Wilson	Asks if SAIF is in business to make it difficult for other insurance companies to make a profit.
185	Davie	Replies that SAIF makes insurance available to as many people as possible.
201	Rep. Deckert	Asks if SAIF has ever distributed a dividend by undercutting prices.
207	Davie	Replies no.

211	Rep. Deckert	Asks if distribution of dividends is flexible.
214	Davie	Replies that SAIF is able to distribute dividends any time.
218	Rep. Deckert	Asks about relationships with dividend receivers.
222	Davie	Replies that SAIF does not have relationships with dividend receivers. Explains group arrangements with twenty trade associations.
244	Rep. Bowman	Asks about SAIF's 31% of the market share. Asks how many insurance companies are providing workers' compensation insurance in Oregon.
254	Davie	Responds there are approximately 300.
264	Rep. Bowman	Asks why SAIF has lost the market share they used to have.
267	Davie	Replies that rates have gone down in Oregon and other private insurance companies can compete with SAIF.
272	Rep. Bowman	Asks about losing market shares.
276	Davie	Replies that the loss of market shares is cyclical.
284	Rep. Beck	Asks why SAIF does not offer a fluctuating rate for premiums.
292	Davie	Replies that insurance pricing is regulated.
311	Rep. Beck	Asks if a dividend is a refund.
320	Davie	Responds to question.
324	Rep. Beck	Asks if an increase in claims causes a reduction in dividends available.
334	Davie	Explains that two-thirds of the dividend is based on improved loss experience than was expected.
364	Rep. Beck	Asks if SAIF is required to pay a dividend or if they can build their reserves.
371	Davie	States they are required to do an analysis of possible dividend by statute.

380	Rep. Beck	Asks if the legislature can draft statutes to change the law about dividends.
388	Davie	Replies yes. Explains a 1981 lawsuit where the state took \$81 million dollars from SAIF and put it into the General Fund.
401	Rep. Beck	Asks if that was the genesis of the court case.
404	Davie	Answers that it was a "direct taking" of SAIF assets.
TAPE 63, B		
003	Rep. Beck	States that further investigation needs to be done prior to moving on HB 3502.
010	Davie	Replies that the dividend would not be paid by SAIF, but by the employers.
016	Steve Telfer	Oregon Legislative Counsel, Alliance of American Insurers. Testifies in support of HB 3502 (EXHIBIT C). Explains that SAIF has a large surplus which is the product of the historical Industrial Accident Fund. States that the earnings are tax-free.
065	Chair Wilson	Asks who is the Alliance of American Insurers.
069	Telfer	Explains organization.
073	Rep. Harper	Asks if private companies are required to do an annual audit.
075	Telfer	Replies no.
077	Rep. Harper	Asks if this would be exclusive for SAIF.
078	Telfer	Replies that private insurance companies are required to file reports with the insurance commissioner. States that HB 3502 would impose on SAIF an independent audit for verification of distribution of dividends.
085	Rep. Bowman	Asks if an independent audit would provide additional information to the annual report provided to the Secretary of State.
090	Telfer	Responds they are two different kinds of audits.
103	Chair Wilson	Closes public hearing on HB 3502 and opens public hearing on HB 3503.

HB 3503 PUBLIC HEARING

104	Rep. Butler	Testifies in support of HB 3503. States that reserves are true and not set aside to keep the profits from appearing differently. Explains that the issue of competition is relative to HB 3503. States that pure rates establish the beginning of a monopoly.
154	Gilliam	Testifies in support of HB 3503. Explains that his previous testimony for HB 3502 was based on a real situation. States that NFIB is not trying to restrict SAIF from having dividends, but rather regulating the distribution.
187	Rep. Bowman	Asks for proof that SAIF is using advertising strategies to put other insurance companies out of business.
198	Gilliam	Responds that he can not provide the name of that company.
203	Chair Wilson	Asks if 31% market share is considered large.
205	Gilliam	Replies yes.
211	Koch	Replies that 300 companies are authorized to provide workers' compensation insurance.
226	Chair Wilson	Asks if 31% of the share is considered large.
231	Davie	Replies that SAIF is the largest single carrier. States that NFIB has shown no interest in entering into a relationship with SAIF.
266	Chair Wilson	Asks about the suspicions regarding SAIF and if HB 3502 and HB 3503 would cause undue hardship on SAIF.
279	Davie	Replies that the suspicions would not go away.
289	Rep. Atkinson	Asks for marketing material from SAIF.
294	Chair Wilson	Asks for a folder of information.
296	Brian Steffel	Senior Vice-President, SAIF. States that they would be happy to share marketing materials.
303	Rep. Atkinson	Asks for materials from companies who might be unsure in their decision.

306	Chair Wilson	Asks if that information could be made available to each member.
311	Steffel	Replies yes.
315	Rep. Beck	Asks why NFIB does not sign up with SAIF.
324	Gilliam	States that SAIF did offer a program, but that it did not appear to be appropriate. States that he excused himself from the meeting. Explains that he received a follow-up call from SAIF asking if he was interested in the program.
339	Rep. Beck	Asks what year that occurred.
340	Gilliam	States that it was after the 1990 Special Legislative Session.
348	Rep. Beck	Asks why NFIB does not sign up with SAIF.
353	Gilliam	Replies that SAIF has a program with an NFIB membership competitor.
370	Telfer	Testifies in support of HB 3503 (EXHIBIT D) .
380	Rep. Harper	Asks if the restriction in advertising applies to the private sector.
381	Telfer	Responds no.
383	Rep. Harper	Asks if there is any restriction in the private sector.
385	Telfer	Replies no.
391	Chair Wilson	Recesses at 2:42 p.m. and resumes at 2:46 p.m. and opens work session on HB 2892.
<u>HB 2892 WORK SESSION</u>		
409	Cara Filsinger	Administrator. Explains HB 2892-2 and HB 2892-6 amendments.
422	Rep. Atkinson	Asks if wine is being added with cider.
TAPE 64, B		
002	Filsinger	Explains HB 2892-8 amendments.

006	Chair Wilson	Asks for discussion on HB 2892-2 amendments. Asks about the re-labeling process because of the 5.7% limitation.
009	John Powell	Miller Brewing Company. Introduces self.
011	Bill Linden	Anheuser-Busch Company. Introduces self.
013	Richard Kosesan	Coors Brewing Company. Introduces self.
015	Linden	States that Oregon has an alcohol level percentage cap in determining if a malt beverage is a beer. Explains that manufacturers have to provide separate labeling for those items at a higher cost.
036	Powell	Explains there are three states, including Oregon, which have laws that state a company can not call malt beverages beer, if they are above a certain alcohol content. States that they would be happy with an increase in the alcohol percentage limitation.
065	Chair Wilson	Replies that he is in support of HB 2892-2 amendments.
069	Rep. Harper	Asks about HB 2892-6 amendments and why 7% was not considered.
071	Chair Wilson	Replies that 6% will take care of the immediate difficulty in marketing.
076	Rep. Thompson	Asks if 6% will effect other products in the future.
079	Powell	Replies that he does not know.
085	Chair Wilson	MOTION: Moves to SUSPEND the rules for the purpose of adopting conceptual amendments.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr, Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.

086	Rep. Wilson	MOTION: Moves to AMEND HB 2892-2 amendments by changing "seven" to "six" on page 1, on lines 10 and 18.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr, Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.
090	Rep. Wilson	MOTION: Moves to ADOPT HB 2892-2 amendments dated 04/02/99 AS AMENDED.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr, Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.
105	Barb Hutchison	Oregon Liquor Control Commission (OLCC). Introduces other OLCC employees.
114	Chair Wilson	Asks for clarification of cider.
118	Chris Hanson	OLCC. Clarifies difference between cider and wine. States that HB 2892-6 amendments address the separate definition of cider.
128	Rep. Bowman	Asks if there is an alcohol content in cider.
133	Hanson	Replies that cider has a 10% alcohol content.
135	Rep. Bowman	MOTION: Moves to ADOPT HB 2892-6 amendments

		dated 04/13/99.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr, Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.
156	Filsinger	Describes HB 2892-8 amendments.
162	Mike McCallum	Oregon Restaurant Association. States that HB 2892-8 amendments give the Lottery Commission rule making authority to direct placement requirements.
165	Rep. Starr	MOTION: Moves to ADOPT HB 2892-8 amendments dated 04/13/99.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr, Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.
184	Filsinger	States that HB 2892 has a large revenue impact and the chair of Revenue is willing to look at the bill.
194	Rep. Beck	MOTION: Moves HB 2892 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Revenue.
		VOTE: 8-0 AYE: 8 - Atkinson, Beck, Bowman, Deckert, Harper, Starr,

		Thompson, Wilson EXCUSED: 1 - Sunseri
	Chair Wilson	The motion Carries.
198	Chair Wilson	Closes work session on HB 2892 and opens public hearing on HB 2574.
<u>HB 2574 PUBLIC HEARING</u>		
209	Rep. Dan Gardner	Representative, House District 13. Explains HB 2574-2 amendments. States that he believes in a drug-free workplace policy. Points to (EXHIBIT E) which is a Department of Administrative Services drug-free workplace policy.
215	Rep. Thompson	Asks why alcohol is included when it is a legal substance.
220	Rep. Gardner	States that HB 2574-2 amendments delete alcohol from the bill.
231	Rep. Bowman	Refers to line 15, asks for clarification of "demonstrate".
242	Rep. Gardner	Explains that the agency contract shows they have a drug-testing policy in place.
251	Rep. Bowman	Suggests new language be drafted to replace "demonstrate."
253	Rep. Gardner	Replies that "demonstrate" means showing that they have a drug-free policy.
256	Rep. Atkinson	Asks if there is a provision in the public contract which would indicate the type of testing.
259	Rep. Gardner	Indicates the language was left the way it is so that an administrative rule process can be developed during the interim.
268	Chair Wilson	Asks about drug policy practices of union shops versus open-shop contractors.
278	Rep. Gardner	States that he is unaware of open shop drug policies. Describes personal experience regarding drug testing. Explains the process if drug test failure occurs.
289	Bob Shiprack	Oregon State Building and Construction Trades. Testifies in support of HB 2574

		(EXHIBIT F). States that both union and nonunion must submit to drug testing. Comments about on-site contractor drug testing plan. Describes experience promoting drug testing in the workplace.
336	Shiprack	Continues testimony in support of drug-testing in the workplace. Addresses private sector and public owner support of drug testing.
370	Shiprack	Comments on language requiring drug testing in a reasonable, effective program.
382	Chris Davis	Testifies in support of HB 2574 (EXHIBIT G) . Points out that this is not a union and non-union issue. Explains the importance of a uniform drug testing policy. Stresses the importance of safety in the construction industry.
431	Davis	Addresses drug-free zones.
TAPE 65, A		
024	Dugan Petty	Department of Administrative Services, Transportation, Purchasing and Publication Services Division (DAS, TPPS). Testifies in opposition to HB 2574 (EXHIBIT H) . States that the cumulative expense to administer the program will be significant.
045	Rep. Bowman	Asks if the public agency would be required to administer the drug testing.
050	Petty	Replies no. States that all public contracts would be subject to the provision. Explains that the public contractor would be required to have a drug-testing policy in place.
070	Chair Wilson	Asks if Petty would be able to return at a later date.
075	Petty	Replies yes.
079	Laird Cusack	Associated General Contractors (AGC). Testifies in support of HB 2574 (EXHIBIT I) . States that many of AGC's union contractors have existing drug testing programs tailored to fit their needs and that HB 2574 would allow them to continue their programs.
090	Chair Wilson	Closes public hearing on HB 2574 and adjourns at 3:05 p.m.

Submitted By, Reviewed By,

Faye D. Trupka, Cara Filsinger,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3502, written testimony, Joe Gilliam, 11 pp.

B ñ HB 3502, written testimony, Chris Davie, 7 pp.

C ñ HB 3502, written testimony, Steve Telfer, 1 p.

D ñ HB 3503, written testimony, Steve Telfer, 1 p.

E ñ HB 2574, written testimony, Rep. Dan Gardner, 2 pp.

F ñ HB 2574, written testimony, Bob Shiprack, 10 pp.

G ñ HB 2574, written testimony, Chris Davis, 2 pp.

H ñ HB 2574, written testimony, Dugan Petty, 1 p.

I ñ HB 2574, written testimony, Laird Cusack, 1 p.