

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

June 11, 1999 Hearing Room 357

3:00 p.m. Tapes 189 - 190

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Bill Witt

MEMBER EXCUSED:

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Larry Wells

STAFF PRESENT: Aaron Felton, Counsel

Rachel Short, Administrative Support

MEASURE/ISSUES HEARD: SB 408A - Work Session

SB 1115 - 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 189, SIDE A		

004	Chair Shetterly	Calls the hearing to order at 3:20 p.m.
022	Counsel Taylor	SB 1115 modifies scope of public policy in statutes relating to organized labor and labor disputes.
027	Rep. Williams	MOTION: Moves to RECONSIDER the vote by which SB 1115 was PASSED to the FLOOR.
		VOTE: 6-0 EXCUSED: 3 - Backlund, Edwards, Wells
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
<u>WORK SESSION SB 1115</u>		
036	Tim Bernasek	Oregon Farm Bureau Testifies and submits proposed 5 amendments to SB 1115. (EXHIBIT A) . Discusses the definition of "concerted activities".
075	Chair Shetterly	Cites pg. 2 of the 5 amendments concerning protected activity.
083	Rep. Uherbelau	Asks about the language that was deleted about being "disruptive".
085	Bernasek	Explains that being disruptive to contribute to a job disruption was hard to define so the language was taken out of the bill.
099	Chair Shetterly	Discusses that the language that was inserted into the 5 amendments was meant to deal with some of the previous concern that members had about the SB 1115.
107	Jack Roberts	Commissioner, Bureau of Labor and Industries Testifies in support of the 5 amendments to SB 1115. We have a broader range of activities that are now included with the definition of concerted activities.
122	Rep. Witt	Is "concerted activities" defined in the bill?
124	Roberts	Reads the definition of concerted activities as stated on line 18, pg. 1 of SB 1115.
150	Rep. Lowe	I'm interested in what the farm workers think of SB 1115.

161	David Nebel	<p>Oregon Law Center</p> <p>The sticking point to this bill on the farm workers behalf is the interruption of work activities that could occur.</p>
176	Rep. Uherbelau	<p>The issues that were brought up during negotiations was that during the harvest time there would not be a lot of disruptions that there was stability. The other issue was that if the farm workers didn't have the right to make a point during the harvest season, it would be a worthless right.</p>
197	Chair Shetterly	<p>I would like to adopt the 5 amendments today and then discuss the bill further next week and possibly pass the bill out at that time.</p>
205	Roberts	<p>Cites that the 5 amendments language is broader about a group of employees going to an employer with their concerns, but that it might limit the rights of individual employee stating their concerns to their employer.</p>
219	Chair Shetterly	<p>We will indicate that those changes need to be made to Legislative Counsel and consider those amendments at the next meeting. Commends those that have worked on the bill to accomplish a combined bill that helps all of the interested parties involved.</p>
237	Uherbelau	<p>I would also like to commend both sides that worked on this as well. Discusses that two issues that the governor was concerned about were taken care of with 5 amendments to SB 1115.</p>
250	Chair Shetterly	<p>Closes work session on SB 1115.</p>
<p><u>WORK SESSION ON SB 408A</u></p>		
258	Counsel Taylor	<p>SB 408A authorizes that State Office for Services to Children and Families to enter into interstate compacts regarding provision of assistance to adoptive families who are parties to adoption assistance agreements. Discusses the 9 amendments (EXHIBIT B) that were submitted by the State Court Administrators Office and the 10 amendments to resolve conflicts (EXHIBIT C).</p>
297	Judge Deanne Darling	<p>Judge, Oregon City</p> <p>Testifies in support of SB 408A. Cites and discusses Section 21 relating to the termination of parental rights. Discusses an adoption case that she was recently a party to regarding parental termination. Discusses her feelings towards adoption agencies. Court review is a good idea.</p>
403	Rep. Uherbelau	<p>I noticed that in Section 21, unless A and B are not "and", it is an "or". These should be three different reasons.</p>
424	Judge Darling	<p>Yes, and I believe that everyone would agree to that.</p>

425	Chair Shetterly	Discusses why that specific language was used in Section 21.
436	Timothy Travis	Oregon Judicial Department Testifies and submits written testimony in support of SB 408A. (EXHIBIT D) . Discusses the language in Section 15, pg. 13, line 2 regarding the exceptions to the termination rule. Discusses the flow chart from on pg. 5 of Exhibit D regarding the Adoption and Safe Families Act (ASFA) timeline.
TAPE 190, SIDE A		
050	Travis	Continues discussion on SB 408A and the timeline that occurs for most adoption proceedings. The purpose of the ASFA is to speed up the process for children to get into homes. Explains that with the potential amendments, SB 408A will be consistent with the intent of Congress. The Services to Children and Families interpretation of the language in SB 408A and the amendments is that the court has no power to ensure that when they make their adoptive proceeding decision, they followed the law.
095	Bradd Swank	State Court Administrators Office The initial fiscal impact that the Judicial Department has submitted on SB 408A has not changed. The money is there for the State Court Administrators Office to implement the program outlined in SB 408A.
148	Chair Shetterly	On pg. 16 of SB 408A, to make the proceeding explicit in Section 21, would be a court proceeding and to do that would not result in any greater fiscal impact.
157	Rep. Uherbelau	Reads from the comment section of a paper published regarding the proposed rules of the U. S. Department of Health and Human Services.
177	Travis	You are quoting from a <i>proposed</i> document and not the final federal rule. Oregon has designed their hearing process so that there is no extra workload. At this point, every other state allows for judicial review, but we have designed our system so that the court does not have to call a special hearing.
193	Rep. Uherbelau	Asks about the ñA9 amendments regarding "existing exceptions".
198	Travis	If the exception doesn't excuse the state from filing a termination, then what is the exception for?
207	Judge Darling	There is nothing in SB 408A that prohibits the state from filing terminations. Discusses what would happen in her courtroom if SB 408A was passed.
226	Travis	We are talking about parents coming into court and asking a judge to not file a termination. The agency is saying that the judge cannot hear a parents plea for parental rights termination. That is wrong.

236	Judge Darling	I think that as a judge, we could still hear the plea, but nothing could be done about it.
239	Rep. Uherbelau	If the federal law does not prohibit Oregon from hearing terminations in a specific way, then we need to determine what works best for the child.
248	Judge Darling	What is best for the child is what we are hoping for. That is why the Legislature has to make this decision for us.
259	Bob Mink	Deputy Director, Department of Human Resources Testifies regarding the fiscal impact of SB 408A. Discusses the fiscal impact and that the ñA9 amendment is not included in their original fiscal impact. Discusses that SB 408A is needed because Congress passed a law and Oregon has to comply with it. Discusses that the mandate made by Congress is an unfunded mandate that will make it harder for the State of Oregon to comply with.
303	Connie Gallagher	Special Assistant, Services to Children and Families (SCF) Testifies and submits written testimony in support of SB 408A, but in opposition of the proposed ñA9 amendment (EXHIBIT E). Discusses three reasons why the ñA9 amendments should not be adopted, as outlined in Exhibit E.
TAPE 189, SIDE B		
008	Linda Guss	Department of Justice (DOJ), Assistant Attorney General Discusses her background in the Attorney Generalís Office and that her job currently consists of dealing with contested parental termination cases. We recognize the importance of the role of the court, but the responsibilities have to be balanced. The concern that the DOJ has with the ñA9 amendments is that it may create or increase unnecessary delays in achieving permanency for children. Discusses what changes the ñA9 amendments would make to current law. Explains that when the state relays on the exception to the mandate to seek termination, there will have to be a court hearing. If the state could find a compelling reason not to file for parental termination, they could then stop proceeding with the termination. The Adoption and Safe Families Act (ASFA) sets very clear guidelines in which a termination must be filed. In concurrence the state must comply with only those exceptions as laid out in ASFA; to enact additional exceptions would be contrary to ASFA. Discusses if the ñA9 amendments would be in line with ASFA.
151	Rep. Uherbelau	The DOJ thinks that the scope of the review should be limited to making sure that SCF has done what it should?
157	Guss	That is what appears was intended by ASFA.
161	Rep. Uherbelau	Cites Section 15 regarding the permanency of child placement. Why canít the court look at a reinstatement plan and make a determination if there are compelling reasons to return a child to its family?

183	Guss	That is the question and ASFA is not entirely clear on the case. Gives examples of what the scope of courts review should be.
225	Rep. Uherbelau	Discusses the differences in a termination and a permanency determination hearing. SCF has does an excellent job without having enough resources, but it does not hurt to have a second look.
252	Guss	Discusses the retroactive and prospective review by the courts of what SFC has done.
278	Counsel Taylor	In the situation that you have been discussing, the child is before the court?
282	Guss	In most cases, there has already been a hearing. Any party can request the permanency hearing at any time.
293	Counsel Taylor	Is the child before the court for any reason?
296	Guss	Yes, at a particular point, with the mandates of ASFA there is a hearing where the circumstances of the child are going to be reviewed.
299	Chair Shetterly	Why is the child already under jurisdiction of the court?
300	Guss	Because there has been a prior finding that the child has been abused or neglected.
303	Counsel Taylor	If we donit comply with federal law then we could lose some of the federal money that we receive in regards to foster care?
309	Guss	That is correct.
310	Counsel Taylor	If we adopt the ñA9 amendment, will the state lose federal funds?
315	Guss	That is the question that I am raising. Discusses the exception that is included in the ñA9 amendments and if that will make the state lose the federal funds.
329	Chair Shetterly	Refers to page 2 of Exhibit D, citing the language that "every other stateís conforming language embodies this kind of oversight". Do you agree with that?
338	Guss	Discusses that she has had the opportunity to review other stateís legislation regarding this type of termination hearings but has not been able to make that determination.
359	Chair Shetterly	It would be helpful to have a copy of the information that you looked at.

363	Rep. Uherbelau	Discusses her concern that with the adoption of the ñA9 amendments, there might be an impact of losing federal money.
383	Guss	I have had many discussions on whether the language in SB 408A would comply with federal mandates and I believe that the bill as it currently stands would comply.
393	Rep. Uherbelau	Would the new language in the ñA9 amendments comply?
397	Gallagher	We will continue to try and find the answers to those questions.
430	Chair Shetterly	Adjourns the hearing at 4:40 p.m.

Transcribed By, Reviewed By,

Sarah Watson, Anne Tweedt,

Office Manager Committee Counsel

EXHIBIT SUMMARY

A ñ Proposed ñ5 amendments to SB 1115, Staff ñ 4 pgs.

B ñ Proposed ñA9 amendments to SB 408A, Staff ñ 1 pg.

C **Proposed A10 amendments to SB 408A, Staff 6 pgs.**

D **Written testimony on SB 408A and the A9 amendments, Tim Travis 11 pgs.**

E **Written testimony on SB 408A, Connie Gallagher 4 pgs.**