

HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

May 25, 1999 Hearing Room D

3:30 P.M. Tapes 68 - 69

MEMBERS PRESENT: Rep. Mark Simmons, Chair

Rep. Richard Devlin, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Rep. Jason Atkinson

Rep. Chris Beck

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Dan Gardner

Rep. Kevin Mannix

Rep. Kitty Piercy

Rep. Jim Welsh

Rep. Max Williams

MEMBER EXCUSED:

STAFF PRESENT: Cletus B. Moore, Jr., Administrator

Kevin E. Wells, Administrative Support

MEASURE/ISSUES HEARD: HB 3629 Public Hearing

HB 2830 Public Hearing

HB 3285 Work Session

HB 3629 Public Hearing

HB 2830 Public Hearing

TAPE/#	Speaker	Comments
TAPE 68, A		
001	Chair Simmons	Calls the meeting to order at 4:10 p.m. Opens Public Hearing HB 3629.
<u>HB 3629 PUBLIC HEARING</u>		
008	Rep. Karen Minnis	District 20. Testifies in support of HB 3629.
015	Chair Simmons	Asks if there are amendments coming for HB 3629.
016	Rep. Minnis	Replies that her office is not bringing forward amendments, but she understands that there will be amendments.
022	Chair Simmons	Closes Public Hearing HB 3629. Opens Public Hearing HB 2830.
<u>HB 2830 PUBLIC HEARING</u>		
025	Rep. Kropf	District 37. Testifies in support of HB 2830 with the ñ4 amendments (EXHIBIT A). Describes discussions relating to HB 2830.
056	Rep. Gardner	Asks which employers are inspected, according to the ñ4 amendments.
062	Rep. Kropf	Explains which employers can be inspected and why.
075	Rep. Gardner	Asks if those subject to a random inspection receive written notice.
077	Rep. Kropf	Answers no. States that Oregon Occupational Safety and Health Divisionís (OR OSHA) consultative services will be emphasized. Explains that why the provision was included. Discusses how and why inspections will take place.
114	Rep. Gardner	Agrees that OR OSHAís consultative services are useful. Asks for details on how consultative services and inspections operate.
122	Rep. Kropf	States that "worst first" is the direction that the department needs to operate, where the worst work place environments need to be inspected first. Explains that the emphasis needs to be on consultative services rather than punitive action.

155	Rep. Gardner	Asks what is an "unreasonable delay."
160	Rep. Kropf	Replies that will be determined by administrative rule.
172	Chair Simmons	Closes Public Hearing HB 2830. Opens Work Session HB 3285.
<u>HB 3285 WORK SESSION</u>		
176	Moore	Reviews the 110 amendment to HB 3285.
185	Rep. Beyer	MOTION: Moves HB 3285 to the floor with a DO PASS AS AMENDED recommendation.
189	Rep. Beyer	MOTION: Moves to AMEND the motion that Moves HB 3285 to the floor with a DO PASS AS AMENDED recommendation by inserting "and BE REFERRED to the committee on Ways and Means" after "recommendation".
195	Winters	States that she has not seen the fiscal impact statement.
210		VOTE: 11-0 EXCUSED: 1 - Mannix
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
215	Chair Simmons	Closes Work Session HB 3285. Explains that HB 2335 will not be heard. Reopens Public Hearing HB 3629.
<u>HB 3629 PUBLIC HEARING</u>		
225	Bob Livingston	Legislative Director, Oregon State Fire Fighters Council (OSFFC). Supports HB 3629 (EXHIBIT B). Explains what Hepatitis C is. Discusses the risk it poses to fire fighters and other safety workers.
300	Livingston	Continues to discuss fire fighters' risk of contracting Hepatitis C. States that safety workers need to be covered for Hepatitis C.
357	Nelson Hall	Lawyer, OSFFC. Supports HB 3629. Relates experience with fire fighters. Discusses the legal liability of workers and employees as regards Hepatitis C.

400	Hall	Explains the common exposures to Hepatitis C, concluding that safety workers are most likely to be exposed through their work. Discusses the proposal of establishing rebuttable presumption that a safety worker contracted Hepatitis C on the job.
TAPE 69, A		
010	Hall	Discusses the biology of Hepatitis C. Reviews the current burden of proof to establish that a safety worker contracted Hepatitis C on the job. States that it is nearly impossible. Stresses that HB 3629 establishes a rebuttable presumption of on the job exposure for safety workers.
060	Tom Chamberlain	President, Portland Fire Fighters. Supports HB 3629. Introduces the ñ1 amendments (EXHIBIT C). Discusses HB 3629. Explains that procedures to report exposure to Hepatitis C are recent, because knowledge about Hepatitis C is new.
093	Rep. Beyer	Asks if it is almost impossible for employers to meet the proposed burden of proof.
099	Hall	Answers employers can meet the burden of proof under rebuttable presumption. Explains that employees are required to cooperate with employers investigating such claims.
111	Rep. Beyer	Asks if Hepatitis C is currently covered under workersí compensation.
113	Hall	Replies that Hepatitis C is covered by workersí compensation if the worker can establish the work connection for the disease.
116	Rep. Beyer	Asks if HB 3629 changes the burden of proof. Asks if the claim is not proven, do insurers cover treatment of Hepatitis C.
124	Hall	Responds that coverage depends on a number of factors. Adds that if workersí compensation does not cover treatment, then the cost is shifted to the private sector.
128	Rep. Beyer	Asks if the policy question is a decision on which insurance company covers treatment.
133	Hall	Disagrees with that assertion. Explains that there are differences between being covered by workersí compensation and private insurance.
141	Rep. Edwards	Asks Chamberlain to describe the ñ1 amendments.
143	Chamberlain	Explains that the ñ1 amendments cites the ORS for exempt plans, so that safety

		workers in Portland receive the benefit of HB 3629.
146	Rep. Edwards	Asks it is designed to cover the Portland Fire and Police Bureaus.
148	Chamberlain	Answer yes.
150	Rep. Mannix	Asks why Hepatitis C is being covered in statute when, currently, no other medical condition is included.
162	Chamberlain	Replies that this is a pressing problem in Portland.
166	Rep. Mannix	Asks why they are using new language in HB 3629.
170	Chamberlain	Responds that the only other way to effect the change requires placing the proposed charter change on the ballot.
174	Rep. Mannix	Asks if the entire workers' compensation package for the City of Portland is chartered and has to be changed through a ballot initiative.
176	Chamberlain	Answers affirmatively.
182	Rep. Mannix	Asks if the substantive change in the law changes the charter.
185	Hall	Explains that the bill amendments is an attempt to ensure that statute and Portland's charter are consistent.
208	Rep. Mannix	Asks if there are any epidemiological studies of Hepatitis C incidence among fire fighters compared to other health care workers.
214	Livingston	Explains that knowledge of Hepatitis C is very new and incomplete.
225	Rep. Mannix	Explains that the process of establishing rebuttable presumption clauses usually involves moral absolutes or based on a sound scientific basis.
238	Livingston	Discusses epidemiological trends of Hepatitis C, which shows that fire fighters are contracting the disease on the job.
267	Rep. Mannix	Asks why they are mirroring the five year latency period; why are they mirroring the presumption with clear and convincing evidence for the burden of proof on the employer; and why are they grandfathering in current employees without testing.

285	Vice-Chair Starr	Asks the witnesses to answers to those questions in writing.
293	Brian DeLashmutt	Oregon Council of Police Association. Supports HB 3629. Explains police officers' on the job risk of exposure to Hepatitis C.
315	Mary Botkin	American Federation of State, County and Municipal Employees. Supports HB 3629. States that inmates try to infect correctional officers with Hepatitis C and other diseases.
365	Botkin	Relates incidents of possible exposure to Hepatitis C. States that the question is who pays for treatment and for how long.
TAPE 68, B		
001	Botkin	Adds that if Hepatitis C is covered by the public system then it will be tracked and studied.
015	Rep. Piercy	Asks if correction officers are tested for Hepatitis C.
016	Botkin	Answers no.
017	Brad Witt	Secretary/Treasurer, Oregon AFL-CIO. Supports HB 3629 (EXHIBIT D). Explains why the bill is needed. States that the cost of treating Hepatitis C for safety workers should not be shifted to the private sector.
042	Chris Davie	SAIF Corporation. Opposes HB 3629 (EXHIBIT E). States that additional legislation is not needed to cover safety workers exposure to Hepatitis C. Adds that HB 3629 creates a special category of employment with special benefits. Notes that HB 3629 does not differentiate between different types of Hepatitis, which are transmitted in different, and non-work related, ways. Points out that the Center for Disease Control (CDC) considers only 1% of Hepatitis B cases to be work related (2% for Hepatitis C).
091	Rep. Piercy	Asks if there are specific areas of employment that contract Hepatitis B and C.
093	Davie	Explains that the CDC only mentioned health care employees.
096	Rep. Piercy	Asks if people who work in controlled situations are in the same statistical population as those who work in uncontrolled situations (i.e. safety workers).
101	Davie	Answers yes.
103	Rep. Gardner	Asks if past workers are covered by workers' compensation, as Hepatitis C can be latent for years.

112	Davie	Answers yes. States that there is no evidence to show that HB 3629 is necessary.
118	Rep. Gardner	Asks if a claim would be denied if there was no documentation of an incident of possible exposure.
120	Davie	Explains that SAIF has not received a claim on Hepatitis C in the last three years. Suggests that there is no problem.
146	Hasina Squires	Special Districts Association of Oregon (SDAO). Opposes HB 3629. Explains that it shifts the burden of proof. Adds that employers probably cannot prevail. States that needle pricks are not the main cause of blood exposure. Notes that special districts have not had a single claim for Hepatitis C since 1994.
173	Rep. Beyer	Asks if Squires clients are insured by SAIF.
174	Squires	Replies that SDAO is a pooled-insurance group.
176	Maria Keltner	League of Oregon Cities and Association of Oregon Counties. Opposes HB 3629.
186	Linda Jefferson	Employee Benefits and Workers' Compensation Manager, City of Portland. Opposes HB 3629 (EXHIBIT F). States that current law addresses job-related exposure to Hepatitis C. Expresses concern about establishing presumption of exposure for one group of workers when others are at equal or greater risk of exposure. Notes that sexual activity can be a source of exposure to Hepatitis C.
235	Jefferson	Discusses the fire fighters who have tested positive for Hepatitis C.
250	Rep. Mannix	Asks if the city charter needs to be changed with each change of coverage.
254	Jefferson	Replies that changes to the workers' compensation system does not require a change in the city charter.
260	Rep. Mannix	Asks about the exception (from ORS 656) for city charter in cities with more than 200,000 residents.
265	Jefferson	Replies that she does not know about that provision.
269	Rep. Mannix	Asks if Jefferson has any incidence data for Hepatitis C.
275	Jefferson	Explains that less than 5% of Hepatitis C cases resulted from occupational exposures.

291	Rep. Beyer	Asks if Hepatitis C is transmitted through sexual activity.
293	Jefferson	Answers yes.
299	Rep. Edwards	Asks about exposure levels for parks and sanitation workers.
303	Jefferson	Explains that there are many places, such as dumpsters, where public employees encounter hypodermic needles and other sources of Hepatitis C. Notes that most Hepatitis C claims are not from police officers or fire fighters.
325	Rep. Edwards	Asks if 9 incidents of Hepatitis C is high. Asks how many non-safety workers have contracted Hepatitis C through occupational exposure.
330	Jefferson	States that she does not have that information.
340	Chair Simmons	Close Public Hearing HB 3629. Re-opens Public Hearing HB 2830.
<u>HB 2830 PUBLIC HEARING</u>		
347	Kay King	Florence. Supports HB 2830. Discusses experience of working with OR OSEA.
400	King	Explains that HB 2830 gives some relief to business around the state from OR OSEA's practices.
414	Rep. Gardner	Asks for elaboration on an incident that King mentioned.
416	King	Explains the accident and how it was resolved.
TAPE 69, B		
005	Rep. Gardner	Asks for details of the accident.
008	King	Explains the details of the accident. Restates support for HB 2830.
027	Rep. Piercy	Asks what OR OSEA did that was so objectionable to King.
029	King	Describes how logging operations run, noting that standard operating procedures are not possible, which OR OSEA wants. Suggests that OR OSEA prematurely arrives at conclusions.
061	Rep. Piercy	Asks what OR OSEA did, in relation to this case, that King finds objectionable.

062	King	Explains the problems she experienced with OR OSEA: interviewing employees in private, lack of industry knowledge, and not knowing what OR OSEA was trying to accomplish.
081	Rep. Gardner	Asks why she wanted to be present for the interviews with employees.
082	King	Replies that it is her right to be present if the employees do not object.
084	Rep. Gardner	Asks King if the employees gave their consent for her to be present.
085	King	Replies that all the employees agreed to allow her to be present for the OR OSEA interview. States that OR OSEA has too much power.
100	Chair Simmons	Asks if other witness could testify if HB 2830 is rescheduled. Adjourns the meeting at 5:40 p.m.

Submitted By, Reviewed By,

Kevin E. Wells, Cletus B. Moore, Jr.,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2830, LC amendment ñ4 (5/24/99), staff, 2 pp.

B ñ HB 3629, written testimony, Bob Livingston, 1 p.

C ñ HB 3629, LC amendment ñ1 (5/25/99), Tom Chamberlain, 1 p.

D ñ HB 2830, written testimony, Brad Witt, 1 p.

E ñ HB 3629, written testimony, Chris Davie, 3 pp.

F ñ HB 3629, written testimony, Linda Jefferson, 2 pp.