

## **HOUSE COMMITTEE ON WATER AND ENVIRONMENT**

**June 14, 1999 Hearing Room C**

**8:00 AM Tapes 203 - 204**

**MEMBERS PRESENT: Rep. Jim Welsh, Chair**

**Rep. Jackie Taylor, Vice-Chair**

**Rep. Jason Atkinson**

**Rep. Richard Devlin**

**Rep. Juley Gianella**

**Rep. Deborah Kafoury**

**Rep. Jeff Kruse**

**Rep. Jeff Merkley**

**Rep. Susan Morgan**

**STAFF PRESENT: Cara Filsinger, Administrator**

**Harrison Conley, Administrator**

**Stephen Kosiewicz, Administrative Support**

**MEASURE/ISSUES HEARD: SB 156 Public Hearing and Work Session**

**SB 1267 Public Hearing**

**SB 240 Work Session**

**SB 242 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 203, A		

004	Chair Welsh	Calls the committee to order at 8:22 a.m. Opens the public hearing on SB 156.
<b><u>SB 156 ñ PUBLIC HEARING</u></b>		
009	David Efurd	Board of Accountancy. Submits written material ( <b>EXHIBIT A</b> ) and testifies in support of SB 156.
061	Efurd	Continues testimony in support of SB 156.
072	Rep. Taylor	Asks if the Board of Accountancy licenses the tax preparers and tax consultants as well as the certified public accountants.
075	Efurd	Responds that they do not. Notes there is a separate Board of Tax Service Examiners that licenses these professions.
081	Rep. Atkinson	Referencing page 2 of the submitted material, notes that without the fee increases the Board of Accountancy is going to reduce the investigator position by 50%. Asks how they are making it now.
085	Efurd	Responds that they have been operating with a surplus, but they have been using this up.
089	Rep. Morgan	Asks if there has been an attempt to get some feedback regarding the proposed fee increase from the professional associations that the Board has jurisdiction over.
092	Efurd	Responds that they have discussed the fee increase with the professional associations and they agree with the need for the increase.
101	Chair Welsh	Closes the public hearing and opens the work session on SB 156.
<b><u>SB 156 ñ WORK SESSION</u></b>		
103	Rep. Kruse	<b>MOTION: Moves SB 156 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
110	Chair Welsh	<b>The motion CARRIES.</b> <b>REP. DEVLIN will lead discussion on the floor.</b>

119	Chair Welsh	Closes the work session on SB 156 and opens the public hearing on SB 1267.
<b><u>SB 1267 n PUBLIC HEARING</u></b>		
133	John McCulley	Representing Tree Fruit Growers. Submits written material ( <b>EXHIBIT B</b> ) and testifies in support of SB 1267.
185	Thom Nelson	Executive Director, Hood River Grower-Shipper Association. Testifies in support of SB 1267.
237	Nelson	Continues testimony in support of SB 1267.
280	McCulley	Notes that one of the issues that has been discussed is the effect of SB 1267 on the NAFTA labor site agreement.
302	Rep. Kruse	Asks how the H-2A program is working in the United States.
309	Nelson	Responds that the primary use of the H-2A program is on the east coast.
327	Rep. Kruse	Asks how the H-2A program is working in a state like Florida.
329	Nelson	Responds that Florida has been using the H-2A program off and on.
335	Rep. Kruse	Explains the reason for his previous questions. Asks if they can assume that what they have in SB 1267 is not un-similar to what other states that have decided to access the program have done.
346	Nelson	Responds that it is across the board.
357	Rep. Kruse	Asks if SB 1267 would be helpful for collaboration with the State of Washington in the orchard industry.
368	Nelson	Responds that it would. Notes that the State of Washington is looking into using this program.
374	Rep. Kafoury	Asks what the added regulations are if someone is doing both programs.
382	McCulley	Responds that the checklist in the submitted material will give the members an idea of what is required under the state farm labor contractor program versus what is required under the federal H-2A program.
401	Rep. Merkley	Asks if a farmer who hires guest workers can charge them for meals, supplies,

		and housing.
405	Nelson	Responds that a farmer can charge for meal costs, but they cannot go below the \$7.32 minimum wage.
<b>TAPE 204, A</b>		
008	Rep. Merkley	Asks Mr. Nelson to look into whether they can be charged for housing and get back to the committee with this information. Notes that he has heard stories of farmers who have charged their workers
014	Nelson	States that farmers cannot charge for housing.
015	Rep. Merkley	Referencing the submitted material, asks for clarification that if he were a farmer that employed several hundred legal, American workers, but recruited under the H-2A program, he would be exempt from state regulations.
027	Nelson	Responds that he would not.
028	Rep. Merkley	Asks Mr. Nelson to explain why this is the case.
029	Nelson	Responds that what they are removing is the need to be licensed as a farm labor contractor. Notes that in Rep. Merkley's example he would still be under all state and federal regulations.
040	Rep. Merkley	Notes that the language in the bill reads that if he turned himself into an agricultural association and is qualified under the H-2A program to recruit, he is no longer covered by anything defined as farm labor contractor under Oregon state law.
044	Nelson	States that the only part they are removing is the contractor law. Comments on how difficult it is to get approval under federal law to recruit under the H-2A program.
059	Rep. Merkley	Asks if the person being hired is responsible for paying their transportation costs to come to the United States.
061	Nelson	Responds that the worker pays for the costs, but is reimbursed by the employer.
069	Rep. Merkley	Asks if a worker is ever responsible for paying a recruiter back in their home country.
072	Nelson	Responds that they are not.

081	Rep. Kafoury	Asks Mr. Nelson to explain further how the recruitment process works.
085	Nelson	Explains how guest worker recruitment works.
103	Rep. Kafoury	Asks if the recruiter in a foreign country is subject to any U.S. laws or regulations.
107	Nelson	Responds that these people are not necessarily subject to federal regulations.
118	Rep. Merkley	Asks if a farmer who is exempted from the definition of farm labor contractor is also exempt from BOLI's role to investigate and attempt to adjust equitably controversies between farm labor contractors and their workers.
132	McCulley	Responds that existing Oregon law exempts farmers themselves from the farm labor contractor law.
140	Rep. Merkley	Asks Mr. McCulley if it is his contention that virtually all farm labor falls under the day haul provision.
148	McCulley	Responds that he believes that most farmers are not considered farm labor contractors under the definition that exists in statute.
153	Rep. Merkley	Notes that many farmers hire their temporary work through associations. Asks for clarification that these folks, who are currently affected by the BOLI provisions, would be exempted under the provisions proposed in SB 1267.
158	McCulley	Notes that currently associations cannot act as farm labor contractors. Responds that under SB 1267, this is correct. Comments on the results of a survey that was done of H-2A workers in Mexico.
188	Rep. Devlin	Asks what is the burden of the additional regulations from which they seek relief.
199	McCulley	Responds that there is additional paper work required and the bonding requirement is an issue.
209	Rep. Devlin	Asks how they would compare the overall impact of being regulated under both state and federal law.
214	Nelson	Responds that when they looked at what the federal rules are under the H-2A program and Oregon's farm labor contractor rules, they cannot see why they should be under the state rules.
240	Chair Welsh	Asks what have been the issues with BOLI in regard to the bill.

244	McCulley	Responds that BOLI raised a couple of concerns about SB 1267.
256	Nelson	Notes that any changes that are made at the federal level are going to be compromises.
268	Rep. Taylor	Asks if they are anticipating a worker shortage this harvest season.
271	Nelson	Responds that they are concerned about having a worker shortage.
294	Rep. Taylor	Notes that there was a surplus of workers during the strawberry season. States that it seems to her that the Employment Department does a good service for growers when they are the agency that is recruiting workers.
306	Nelson	Gives example of Schmidt Nursery, which used the Employment Department to do its recruiting. Comments that the Employment Department was unable to bring in an adequate number of workers.
325	McCulley	Notes that another issue of concern to the growers is that the Employment Department does not verify legal status of the workers.
339	Chair Welsh	Closes the public hearing on SB 1267 and opens the work session on SB 240.
<b><u>SB 240 ñ WORK SESSION</u></b>		
346	Harrison Conley	Committee Administrator. Explains the provisions of SB 240.
383	Tom Dixon	Forensics Division Director, Oregon State Police. Testifies in support of SB 240.
402	Rep. Kafoury	Asks why the bill has come to them if it already went through the Joint Ways and Means Committee.
<b>TAPE 203, B</b>		
003	Chair Welsh	Notes that he had the same question. Responds that perhaps the bill came over to the House side late in the process and was assigned to this committee.
<b>016</b>	<b>Rep. Atkinson</b>	<b>MOTION: Moves SB 240 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>

		<b>EXCUSED: 2 - Kruse, Morgan</b>
<b>025</b>	<b>Chair Welsh</b>	<b>The motion CARRIES.</b> <b>REP. TAYLOR will lead discussion on the floor.</b>
030	Chair Welsh	Closes the work session on SB 240 and opens the work session on SB 242.
<b><u>SB 242 n WORK SESSION</u></b>		
034	Cara Filsinger	Committee Administrator. Explains the provisions of SB 242.
044	Dixon	Testifies in support of SB 242.
<b>071</b>	<b>Rep. Atkinson</b>	<b>MOTION: Moves SB 242 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Kruse, Morgan</b>
<b>079</b>	<b>Chair Welsh</b>	<b>The motion CARRIES.</b> <b>REP. ATKINSON will lead discussion on the floor.</b>
083	Chair Welsh	Closes the work session on SB 242 and reopens the public hearing on SB 1267.
<b><u>SB 1267 n PUBLIC HEARING (CONTINUED)</u></b>		
093	Tim Bernasek	Associate Director of Governmental Affairs, Oregon Farm Bureau. Submits and reads written testimony in support of SB 1267 ( <b>EXHIBIT C</b> ).
153	Michael Dale	Attorney, Oregon Law Center. Submits written testimony ( <b>EXHIBIT D</b> ) and testifies in opposition to SB 1267.
186	Chair Welsh	Notes that the bill does not repeal farm labor contracts.
187	Dale	Responds that it does not repeal the farm labor contract or registration act, but it creates the anomaly that your rights as a U.S. worker depend upon whether your employer is seeking foreign workers or not. Continues testimony in opposition to SB 1267.

236	Dale	Continues testimony in opposition to SB 1267.
301	Dale	Continues testimony in opposition to SB 1267.
330	Rep. Atkinson	Asks Mr. Dale if he is suggesting that when the originators at the federal level were drafting NAFTA they were looking at Oregon law.
334	Dale	Responds that he is not suggesting that they were looking at any particular law. Notes that they said procedures must be available for all parties to avail themselves of protections under the law.
341	Rep. Atkinson	States that he has a hard time making the connection between SB 1267 and NAFTA and that SB 1267 changes the intent and practice of NAFTA.
347	Dale	Notes that the Mexican consul testified at the Senate Agriculture hearings on this bill that he regarding this as being a violation of treaty obligations that the United States made to his country.
352	Rep. Atkinson	Asks if this individual was making his comments on full faith of the Mexican government.
356	Dale	Responds that he testified as the Mexican consul.
360	Rep. Atkinson	Asks if this individual submitted written testimony to the Senate.
362	Dale	Responds that he does not believe so.
364	Rep. Atkinson	Reiterates his disbelief in the connection between SB 1267 and NAFTA.
376	Dale	States that he will share Rep. Atkinson's concerns with the Mexican consul.
379	Rep. Merkley	Asks Mr. Dale if he has a sense of the transportation and meal costs to a Mexican laborer wanting to participate in the H-2A program.
386	Dale	Responds that it costs on the average \$300 or \$400 to arrange transportation into the United States.
389	Rep. Merkley	Asks if the worker would prepay for their meals.
390	Dale	Responds that most Mexican workers, because funds are scarce, eat minimally until they begin to work. Notes that the cost might be \$10 a day.



398	Rep. Merkley	Asks for clarification that the transportation and meal costs were fronted.
402	Dale	Clarifies that he was talking about meals during transportation to the United States. Notes that once in the country the farmer can either provide meals, and deduct a cost that is specified in regulations for the meals, or they can provide facilities so the workers can provide their own meals.
412	Rep. Merkley	Asks if a worker who has a complaint about working conditions can be sent home by the employer at anytime upon the employer's choice.
<b>TAPE 204, B</b>		
004	Dale	Responds that legally this cannot happen, but notes that it happens all of the time.
007	Rep. Merkley	Asks Mr. Dale if he is familiar with the <i>60 Minutes</i> investigation that was done on the H-2A program in the sugar cane fields in Florida.
009	Dale	Responds that he is.
010	Rep. Merkley	Asks if this investigation gave an accurate portrayal of how the H-2A program works.
013	Dale	Responds that this investigation represents the way the H-2A program works across the country.
020	Ramon Ramirez	President, Northwest Tree Planters and Farm Workers United (PCUN). Testifies in opposition to SB 1267.
077	Ramirez	Continues testimony in opposition to SB 1267.
126	Ramirez	Continues testimony in opposition to SB 1267.
147	Rep. Atkinson	Asks how the wage in Oregon for PCUN workers compares to the federal \$7.32 wage.
151	Ramirez	Responds that it is pretty close.
154	Rep. Atkinson	Asks Mr. Ramirez if he was supportive of NAFTA.
157	Ramirez	Responds that he did not have a public opinion on NAFTA.

159	Rep. Atkinson	Asks Mr. Ramirez if he thinks NAFTA has been helpful to Oregon farmers.
160	Ramirez	Responds that NAFTA happened in Oregon agriculture 15 years ago when one of the biggest food processing plants moved to Mexico.
165	Rep. Atkinson	Comments on the damage that he believes has been caused by NAFTA.
173	Ramirez	Expresses his opinion that NAFTA has had a negative effect in terms of farm workers.
181	Chair Welsh	Closes the public hearing on SB 1267. Adjourns the committee at 9:57 a.m.

Reviewed By, Reviewed By,

Cara Filsinger, B. Harrison Conley,

Administrator Administrator

Submitted By,

Stephen Kosiewicz,

Administrative Support

#### **EXHIBIT SUMMARY**

**A ñ SB 156, written material, David Efurd, 4 pp.**

**B ñ SB 1267, written material, John McCulley, 16 pp.**

**C ñ SB 1267, written testimony, Tim Bernasek, 2 pp.**

**D ñ SB 1267, written testimony, Michael Dale, 1 p**