

SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS

May 7, 1999 Hearing Room C

1:00 PM Tapes 110 - 111

MEMBERS PRESENT: Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

Sen. Randy Miller

Sen. Charles Starr

STAFF PRESENT: Y. Sherry Sheng, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: HB 2782-A Work Session

HB 3063 Public Hearing and Work Session

HB 3151-A Public Hearing and Work Session

HB 2742-A Public Hearing and Work Session

HB 2402-B Public Hearing and Work Session

HB 2486-B Public Hearing 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 110, A		
003	Chair Nelson	Calls the meeting to order at 1:10 p.m. Opens a work session on HB 2782.
<u>HB 2782 WORK SESSION</u>		

005	Y. Sherry Sheng	Committee Administrator. Gives a brief description of the bill. Mentions that the committee conducted a hearing on the bill on 5-5-99, at which time possible amendments were discussed. Indicates that the ñ2 amendments (EXHIBIT A) have been presented to the committee subsequent to that discussion.
017	Chair Nelson	MOTION: Moves to ADOPT HB 2782-A2 amendments dated 5/6/99.
	Chair Nelson	Hearing no objection, declares the motion CARRIED.
021	Chair Nelson	MOTION: Moves HB 2782-A to the floor with a DO PASS AS AMENDED recommendation.
022		VOTE: 4-0-1 EXCUSED: 1 - Beyer
	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. MILLER will lead discussion on the floor.
028	Chair Nelson	Closes the work session on HB 2782-A and opens a public hearing on HB 3063.
<u>HB 3063 PUBLIC HEARING</u>		
030	Jack Roberts	Commissioner, Bureau of Labor and Industries (BOLI). Testifies in support of HB 3063. Explains that the purpose of the Wage Security Fund, created in 1986, is to provide relief for workers owed wages when a business goes bankrupt. Says the fund is provided for by a diversion from the Unemployment Insurance Fund of .03 percent per quarter biennium. Indicates the fund was originally established on a 2-year basis and was made permanent after 10 successful years. Says that the maximum amount a worker may receive from the fund was \$2000, in accordance with federal bankruptcy laws and mentions that the allowable amount has increased to \$4000. Explains that the bill would allow workers to claim hours worked up to 60 days between making a claim and termination of business operation.
096	Irv Fletcher	President, Oregon AFL-CIO. Testifies in support of HB 3063 (EXHIBIT B). Indicates the fund was created by a joint labor and management session in 1985 prior to its implementation in 1986. Asserts the program has been "eminently successful" but that change is necessary to catch up with inflation.
105	Chair Nelson	Discusses the fiscal analysis statement. Closes the public hearing on HB 3063 and opens a work session on HB 3063.

HB 3063 WORK SESSION

110	Sen. Miller	MOTION: Moves HB 3063 to the floor with a DO PASS recommendation.
115		VOTE: 5-0
	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
120	Chair Nelson	Closes the work session on HB 3063 and opens a public hearing on HB 3151-A.

HB 3151-A PUBLIC HEARING

124	Sen. Rick Metsger	Senate District 14. Testifies in support of HB 3151-A. Indicates the bill has the support of the Credit Union League. Discusses the problems associated with defining proper credit union membership. Gives an overview of the Federal Credit Union Act, mentioning that it affects only federally chartered credit unions. Explains that HB 3151-A serves roughly the same purpose for Oregon credit unions and clearly defines community charters in rural areas.
165	Pamela Leavitt	Assistant Vice President of Legislative Affairs, Oregon Credit Union League. Testifies in support of HB 3151-A (EXHIBIT C). States that the bill has been "a long time in coming."
176	Hal Scoggins	Retained Counsel, Oregon Credit Union League. Testifies in support of HB 3151-A (EXHIBIT D). Explains that currently the Oregon Credit Union Act is not comprehensive and relies heavily on the ability to tie into federal law for its authority. Asserts that the bill allows Oregon credit unions to better serve their constituencies. Suggests the bill, while a reflection of the federal act, offers several improvements to existing rules.
198	Dan Penn	President and Chief Executive Officer, Marion and Polk Schools (MAPS) Credit Union. Testifies in support of HB 3151-A (EXHIBIT E) on behalf of the state chartered credit unions of Oregon. Gives a brief history of MAPS Credit Union. Explains the "dual chartering" system that has allowed state credit unions to serve as "laboratories" for the nationwide system.
		Additional testimony was submitted to the committee for the consideration of its members (EXHIBITS F, G).
233	Chair Nelson	Closes the public hearing on HB 3151-A and opens a work session on HB 3151-A.

HB 3151-A WORK SESSION

245	Chair Nelson	MOTION: Moves HB 3151-A to the floor with a DO PASS recommendation.
246	Sen. Metsger	Declares a potential conflict of interest.
252		VOTE: 4-0-1 EXCUSED: 1 - Miller
	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. METSGER will lead discussion on the floor.
254	Chair Nelson	Closes the work session on HB 3151-A and opens a public hearing on HB 2742-A.

HB 2742-A PUBLIC HEARING

256	Dave Barrows	President, Oregon League of Financial Institutions. Testifies in support of HB 2742-A. Explains that current law allows financial institutions to pay to the survivors of a deceased account holder some of the money if there is an affidavit. Indicates the bill would create a uniform allowable amount for such payments of \$25,000.
275	Chair Nelson	Closes the public hearing on HB 2742-A and opens a work session on HB 2742-A.

HB 2742-A WORK SESSION

277	Chair Nelson	MOTION: Moves HB 2742-A to the floor with a DO PASS recommendation.
280		VOTE: 4-0-1 EXCUSED: 1 - Miller
	Chair Nelson	Hearing no objection, declares the motion CARRIED.

		SEN. STARR will lead discussion on the floor.
292	Chair Nelson	Closes the work session on HB 2742-A and opens a public hearing on HB 2402-B.
<u>HB 2402-B PUBLIC HEARING</u>		
303	David Sparks	Deputy Administrator, Oregon Occupational Safety and Health Administration (OrOSHA). Testifies in support of HB 2402-B.
310	Ivan Wells	Legislative Chair, Oregon WineGrowers. Testifies in support of HB 2402-B.
318	Sen. Starr	Indicates that he bill is designed to address incorporated farms operated by a family unit.
324	Sparks	Concurs with Sen. Starr. Explains that OrOSHA does not currently apply its safety and health standards to small core family farms that elect not to obtain workeris compensation insurance.
340	Chair Nelson	Wonders if there are a number of employees necessary to trigger the enforcement of OrOSHA regulations.
345	Sparks	Replies that family farms are not exempt by statute or by rule, but rather by policy. Reiterates that such farms choosing to obtain a workeris compensation insurance policy would be subject to OrOSHA regulations.
352	Chair Nelson	Closes the public hearing on HB 2402-B and opens a work session on HB 2402-B.
<u>HB 2402-B WORK SESSION</u>		
355	Chair Nelson	MOTION: Moves HB 2402-B to the floor with a DO PASS recommendation.
360		VOTE: 4-0-1 EXCUSED: 1 - Miller
	Chair Nelson	Hearing no objection, declares the motion CARRIED.

		SEN. STARR will lead discussion on the floor.
365	Chair Nelson	Declares a potential conflict of interest. Closes the work session on HB 2402-B and opens a public hearing on HB 2486-B.
<u>HB 2486-B PUBLIC HEARING</u>		
380	Betsy Earls	Legislative Representative, Associated Oregon Industries (AOI). Testifies in support of HB 2486-B (EXHIBIT H). Gives background information regarding family leave laws in Oregon. Indicates that the issue addressed by HB 2486-B is important and must be addressed. Explains that it is impractical to return employees to exactly the same position they held prior to taking family leave and that only Oregon has such a stipulation. Asserts that there is a need for employers to have flexibility in bringing workers back from family leave.
TAPE 111, A		
030	Earls	Says the bill defines "equivalent position" as: <ul style="list-style-type: none"> • Equivalent pay • Equivalent job benefits • Equivalent shift <p>Acknowledges that BOLI has not received many employer complaints regarding family leave. Submits that businesses are more likely to take complaints to business associations such as AOI than to regulatory agencies such as BOLI. Asserts that the original law was an attempt to reach a "good balance" but that this minor change needs to be made.</p>
060	Sen. Beyer	Requests documentation of employer complaints.
062	Earls	Replies that most of those who have complained do not wish to discuss the issue, as they were "breaking the law unintentionally" by putting workers into equivalent positions.
066	Sen. Beyer	Supposes that workers could voluntarily take an equivalent position.
067	Earls	Concurs with Sen. Beyer, adding that the practice is not "technically legal."
070	Sen. Metsger	Acknowledges the need to maintain anonymity for those who have filed complaints. Requests statistics regarding the total number of complaints received by AOI.
077	Earls	Replies that such statistics are not kept by AOI. Estimates AOI received 20-30 calls during the past two years and says that is an inordinately large number.
082	Sen. Metsger	Wonders why complaints could not be taken to BOLI.

084	Earls	Replies that if employers have made mistakes or are doing something wrong they may be hesitant to take their problem to the agency responsible for enforcing the law against them.
086	Sen. Metsger	Asks if it is a matter of fear or intimidation.
089	Earls	Replies that it is not a matter of fear, but rather that BOLI is not the first choice of most employers for lodging a complaint.
091	Sen. Metsger	Inquires about employee complaints.
094	Earls	Says that employees might take complaints to BOLI.
096	Sen. Metsger	Asks how equivalent shifts are determined.
101	Earls	Indicates that equivalent shifts are usually intended to be the same shift whenever possible.
105	Sen. Metsger	Requests an explanation of equivalency of position as it relates to location.
107	Earls	Replies that the equivalent position must be within 20 miles of the one held prior to taking leave.
110	Sen. Metsger	Suggests that certain commutes are more time consuming than are others. Asks if there is any consideration taken for time of commute.
117	Earls	Replies the 20-mile rule was taken directly from federal law.
123	Sen. Metsger	Asserts that such a choice may be a deterrent to taking leave.
132	Lynn Partin	Representative, Women's Rights Coalition. Testifies in opposition to HB 2486-B (EXHIBIT I) . Gives an overview of the Women's Rights Coalition and its membership. Asserts that the bill is an "unnecessary and unwarranted incursion on current family leave laws." Explains that the House Committee on Business and Consumer Affairs adopted amendments without public hearing that changed the meaning of the bill, meaning the bill is not a "product of public input." Mentions that <i>Willamette Week</i> considers the bill one of the five worst bills in the 70 th Oregon Legislative Assembly.
166	Partin	Asserts that women are torn between responsibilities to family and work. Argues that the bill would "punish" women by threatening the loss of job for an employee who chooses to take family leave. Says the employer would be given a choice as to where to put the employee upon return, which removes assurance that an employee will have their old job back, even if it is available. Says such a law would provide a significant deterrent to taking leave. Acknowledges that

		since family leave is unpaid, most workers do not take leave and that those who do take less than the maximum allowable. Notes that there has been no documented numbers of employer complaints put forth by AOI.
208	Sen. Beyer	Asks what detrimental results would follow from passage of the bill.
218	Partin	Replies that employees currently have an assumption that their job will be waiting when they return. Says there are many situations where equivalent positions are no replacement for the original position.
230	Tricia Smith	Government Relations Specialist, Oregon School Employees Association (OSEA). Testifies in opposition to HB 2486-B (EXHIBIT J). Takes opposition to the elimination of the right of workers to return to their own jobs upon returning from leave. Asserts that unscrupulous employers could suggest that an employee will be "reassigned" should they choose to take leave, forcing the employee to choose between job and family. Discusses equivalency of positions.
290	Smith	Asserts that the health of society relies on strong families. Suggests that it makes "absolutely no sense" to force workers to choose between their family and the job that supports it. Mentions the value of employees who feel attachment and responsibility to their companies. Asserts there has been no evidence put forth to indicate that the Oregon Family Leave Act has hurt employers and that in fact the opposite is true. Mentions that some employers allowed leave before the law was enacted. Reiterates that only unscrupulous employers would use job protection as leverage against employees wishing to take leave.
344	Jim Garrett	Custodian, David Douglas High School. Testifies in opposition to HB 2486-B. Offers a testimonial of his experience caring for his terminally ill mother through exercise of the Oregon Family Leave Act. Says the willingness of his employer to consider the needs of his family has made him a more loyal employee.
TAPE 110, B		
008	Laurie Wimmer	Government Relations Consultant, Oregon Education Association (OEA). Testifies in opposition to HB 2486-B (EXHIBIT K). Describes the effort to pass the original family leave bill. Asserts the right to return to one's job is crucial and that its elimination would act as a barrier to taking leave and turn the act into a "paper tiger." Indicates that, during negotiations to enact family leave, workers gave up both light duty work and shorter time of service requirements. Asserts that enacting the bill into law would be to the sole benefit of employers.
043	Wimmer	Questions the definition of "equivalent position" and suggests the bill does nothing to clarify the term. Indicates that although family leave is rarely used in Oregon, it is nonetheless very popular. Reiterates that "bad actors" are likely to take advantage of workers should the bill become law. Questions the need to accommodate temporary workers who replace permanent employees while on leave. Discusses several examples of equivalency, describing ways in which the replacement job would be much less attractive than the original.
109	Steve Harmon	Police Officer, City of Portland. Testifies in opposition to HB 2486-B. Offers the

		personal testimonial of his wife regarding her experience dealing with their daughter's suicide attempts.
221	Steve Lanning	Political Coordinator, Oregon AFL-CIO. Testifies in opposition to HB 2486-B. Argues that same job protection is important and that equivalent positions are inadequate. Reiterates that workers gave up a great deal in return for family leave in Oregon and that the bill "undermines the delicate agreement" that was reached.
237	Jeannie Berg-Rempel	Representative, Service Employees International Union (SEIU). Testifies in opposition to HB 2486-B.
242	Tim Nesbitt	Oregon State Council, SEIU. Testifies in opposition to HB 2486-B. Says that current law has been fashioned to protect both workers who take leave and who stay and that the status quo should be maintained. Asserts that giving employers the ability to place returning employees in equivalent positions will expose all workers in equivalent positions to being "bumped" to accommodate a returning worker. Says that current law minimizes disruption in the work force.
277	Chair Nelson	Closes the public hearing on HB 2486-B and opens a work session on HB 2486-B.
<u>HB 2486-B WORK SESSION</u>		
280	Sen. Beyer	Expresses opposition to HB 2486-B. Acknowledges the reason the bill was brought forth, making reference to an article that addressed the impact of family leave. Mentions that, as an employer, he has experience with accommodating workers who take leave. Asserts that the existing law is good, if inconvenient, and that employers are "coping with it." Says that protections must remain in place to keep unscrupulous employers in line and that good employers are able to work with their employees to arrange leave.
317	Sen. Starr	Expresses support for HB 2486-B. Mentions that, as an employer, he has to deal with the issue of leave on a regular basis. Says giving employees the right to an equivalent position in return for family leave is a good trade-off. Suggests that employees can also abuse the family leave system.
348	Sen. Metsger	Expresses opposition to HB 2486-B. Says the current law adequately addresses many concerns of workers. Submits that neither side has demonstrated a need to change the law and that it is critical to understand that the law works well the way it is. Notes that the Governor has expressed his opposition to the bill (EXHIBIT M). Asserts that if the legislature believes family leave is important it should not be inhibited by making the suggested changes.
401	Sen. Miller	Expresses support for HB 2486-B. States that most employer-employee relationships are good enough to get by with out the "help, aid and assistance" the legislature might impose upon them. Says the Governor should suggest changes that would make the bill acceptable to him in order to prevent a veto. Acknowledges that the Governor has been identified as "not friendly to business." States that there will always be disagreement regarding equivalency of

		positions. Suggests the committee await further indications from the Governor.
TAPE 111, B		
025	Sen. Beyer	Expresses surprise that BOLI did not choose to testify on the bill. Wonders if there may be a way to survey employers in order to determine how large of a problem really exists.
045	Chair Nelson	Indicates the committee will await further information before taking action. Closes the work session on HB 2486-B and adjourns the meeting at 2:37 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Y. Sherry Sheng,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2782-A, -A2 amendments, staff, 1 p.

B ñ HB 3063, testimony, Irv Fletcher, 1 p.

C ñ HB 3151-A, testimony, Pamela Leavitt, 3 pp.

D ñ HB 3151-A, testimony, Hal Scoggins, 2 pp.

E ñ HB 3151-A, testimony, Dan Penn, 1 p.

F ñ HB 3151-A, testimony, Gregory McClarren, 2 pp.

G ñ HB 3151, report, Pamela Leavitt, 16 pp.

H ñ HB 2486-B, testimony, Betsy Earls, 2 pp.

I ñ HB 2486-B, testimony, Lynn Partin, 3 pp.

J ñ HB 2486-B, testimony, Tricia Smith, 2 pp.

K ñ HB 2486-B, testimony, Laurie Wimmer, 3 pp.

L ñ HB 2486-B, testimony, Steve Lanning, 2 pp.

M ñ HB 2486-B, testimony, John Kitzhaber, 1 p.