

## SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

February 3, 1999 Hearing Room B

8:00 AM Tapes 18 - 20

### MEMBERS PRESENT:

Sen. Bill Fisher, Chair

Sen. Frank Shields, Vice-Chair

Sen. Susan Castillo

Sen. Verne Duncan

Sen. Marylin Shannon

### STAFF PRESENT:

Sandy Thiele-Cirka, Administrator

Andrew Morris, Administrative Support

### MEASURES HEARD:

SB 422 Work Session

SB 310 Public Hearing and Work Session

SB 311 Public Hearing 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 18, A		
005	Chair Fisher	Calls meeting to order at 8:10 AM and opens work session on SB 422.
<u>SB 422 WORK SESSION</u>		

015		Staff submits the ñ1 amendments ( <b>EXHIBIT A</b> ).
016	Sen. Duncan	<b>MOTION: Moves to ADOPT SB 422-1 amendments dated 01/28/99.</b>
		<b>VOTE: 4-0</b> <b>AYE: 4 - Duncan, Shannon, Shields, Fisher</b> <b>EXCUSED: 1 ñ Castillo</b>
	Chair Fisher	<b>The motion CARRIES.</b>
050	Sen. Shannon	<b>MOTION: Moves SB 422 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: 4 - Duncan, Shannon, Shields, Fisher</b> <b>EXCUSED: 1 ñ Castillo</b>
	Chair Fisher	<b>The motion CARRIES.</b>  <b>SEN. FISHER will lead discussion on floor.</b>
073	Chair Fisher	Closes work session on SB 422 and opens public hearing on SB 310.
<b><u>SB 310 PUBLIC HEARING</u></b>		
077	Sandy Thiele-Cirka	Committee Administrator. Explains SB 310 to the committee.
098	Charlotte Duncan	Executive Director of Oregon Developmental Disabilities Council. Presents testimony in support of SB 310 ( <b>EXHIBIT B</b> ). Explains the makeup of the council. Comments that the current \$25 per diem does not cover the actual amount needed to reimburse council members. States that the monies are necessary to cover the cost of respite care for family members of board members.
147	Sen. Duncan	Asks about the per diem amount.

157	C. Duncan	Responds that the \$25 is in addition to the current per diem.
160	Chair Fisher	Asks where the additional funding will come from.
163	C. Duncan	Responds the council has budgeted for the increase. States that no additional funds are being requested.
181	C. Duncan	States the council has a cooperative agreement with the Mental Health Developmentally Disabled Services Division (MHDDSD). Explains that the agreement allows the council to decide how funds are allocated.
190	Chair Fisher	Asks if the funds are currently available.
193	C. Duncan	Responds affirmatively.
211	Katharine Weit	Oregon Disabilities Council. Explains the ñ1 amendments for SB 310 <b>(EXHIBIT C)</b> .
250	Chair Fisher	Closes public hearing and opens work session on SB 310.
<b><u>SB 310 WORK SESSION</u></b>		
<b>254</b>	<b>Sen. Duncan</b>	<b>MOTION: Moves to ADOPT SB 310-1 amendments dated 1/29/99.</b>
<b>267</b>		<b>VOTE: 5-0</b> <b>AYE: 5 - Castillo, Duncan, Shannon, Shields, Fisher</b>
	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>
<b>267</b>	<b>Sen. Duncan</b>	<b>MOTION: Moves SB 310 to the floor with a DO PASS AS AMENDED recommendation.</b>
<b>270</b>		<b>VOTE: 5-0</b> <b>AYE: 5 - Castillo, Duncan, Shannon, Shields, Fisher</b>
	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>

		<b>SEN. SHIELDS will lead discussion on the floor.</b>
283	Chair Fisher	Closes work session on SB 310 and opens public hearing on SB 311.
<b><u>SB 311 PUBLIC HEARING</u></b>		
289	Cirka	Explains SB 311.
296	James Toews	Mental Health and Developmental Disability Services Division (MHDDSD). Presents testimony in support of SB 311 ( <b>EXHIBIT D</b> ). Explains that SB 311 states that health care providers assisting families in the home are not classified as state employees.
350	Toews	Continues discussion. States that there is some opposition to the measure. Comments on the federal requirements.
405	Sen. Shields	Questions the families position about these employees and the advocacy issues.
<b>TAPE 19, A</b>		
006	Toews	Indicates that the families feel strongly about advocacy. Explains the high turnover rate and low wages. States that there is an ongoing debate relating to the retention of personal employees.
020	Sen. Duncan	Asks who the employees identify as their employer.
026	Toews	Responds that he does not have that information.
030	Sen. Duncan	Asks if the employee is employed by the state or by the family.
035	Tina Kitchen	Office of Developmentally Disabled Services. Supports SB 311. Explains that the families can negotiate wages. States that the care provider is an employee of the family.
048	Sen. Duncan	Asks who issues the paycheck to the employee.
051	Kitchen	Responds that the family gets the money from the state and the family then pays the employee.
067	Chair Fisher	Asks if SB 311 changes the current procedure.

071	Toews	Responds that the measure utilizes the same system as the current care for the elderly. Explains the measure adds mental health and the developmentally disabled clientele to the system.
086	Rich Peppers	Oregon Public Employees Union (OPEU). Testifies in opposition to SB 311. States that no one takes responsibility for this portion of the workforce. Explains that the care providers are declared as independent contractors, but the state provides the funding. Adds that the bill cuts corners and providers receive little pay, no benefits, and no unemployment. Comments that SB 311 is unfair to the employers and employees.
138	Sen. Duncan	Questions the fiscal impact if the care providers were to be classified as state employees.
146	Peppers	Responds he is unsure of the impact. States that there are approximately 9,000 individuals providing care.
162	Sen. Duncan	Asks if most of the 9,000 qualify for the Oregon Health Plan.
170	Peppers	Responds that there was a wage increase last session, which eliminated people from the ability to receive aid, creating more working poor. Points out that those individuals need representation and fairness.
186	Sen. Shields	Asks how to create a fair system.
205	Peppers	Responds that models from other states are being reviewed. Explains that other states are looking at creating boards to oversee these employees. Adds he supports the families the flexibility to choose which providers they employ.
231	Sen. Shields	Asks if the American Federation of State, County, and Municipal Employee (AFSCME) union is moving towards having the state become the employer and the family the supervisor.
238	Pepper	Responds AFSCME is avoiding the push to have the state declared the employer. Suggests creating a third entity to be the employer of record.
255	Mary Botkin	AFSCME-AFL-CIO Council 75. Testifies in opposition to SB 311. Comments that the care providers are state employees. Notes that care providers have lost wages and health care incentives. Explains that the providers are on duty for 24 hours per day, and that the W-2 forms state "State of Oregon" as the employers. States that the closing of Fairview forced people into poverty. Summarizes that the title of independent contractor" is unfair.
355	Botkin	Explains that care providers are on food stamps and utilize other social services. Comments that MHDDSD is attempting to discard workers. Comments that by denying their status, there are hidden costs by.

396	Chair Fisher	Asks if SB 311 is changing anything.
403	Botkin	Responds that SB 311 creates a larger problem.
<b>TAPE 20, A (TAPE 18 B WAS OVERTLY OMMITED)</b>		
000	Chair Fisher	States that the measure addresses preexisting problems.
006	Botkin	Comments that SB 311 is an opportunity to correct the problem. States that her organization has introduced alternatives regarding Fairview employees.
068	Peppers	States that the problem is extensive.
075	Chair Fisher	Supports higher wages for providers. Comments that the wages may be low and the hours bad, but there are advantages. States that he is not opposed to looking at ways to improve the system.
113	Sen. Shields	States that SB 311 deals with part of the problem. Comments that promises were made, but he is not sure if they were honored. Urges the committee to take a look at the whole problem.
140	Sen. Duncan	Feels the bill clarifies employee status. Supports the committee evaluating this issue.
152	Chair Fisher	States he would like to know how many former Fairview employees are currently employed as care providers. Requests MHDDSD provide the current available positions and the statistics of displaced workers.
184	Sen. Duncan	Requests information regarding people who retired and returned in the capacity of care providers.
195	Peppers	States the issues of the current workers include poor conditions. Asks who claims responsibility for these employees, and feels the issue covers more than former Fairview employees.
214	Chair Fisher	States that the quality of the employees service is not affected by the amount of pay they receive if they are dedicated to the job. Comments that he does not think the state offers better service than private industries, and appreciates the concern for working conditions.
263	Toews	States that most providers care for children. Explains that most people leaving Fairview are going into other fields doing similar work. States that wages are higher than in group homes. Reports that the pay range is \$8 to \$12 per hour. States that 600 of the 1,500 Fairview employees are reemployed in the state workforce, but there have been 270 layoffs to date. Notes that Fairview and SB

		311 are two different issues and each have unique problems.
328	Sen. Shields	Comments in agreement. Urges caution before moving ahead.
360	Sen. Duncan	States he does not want to lose sight of the present discussion relating to mental health.
380	Botkin	Feels the mental health issues could be discussed with the parity bill that is being introduced. Stresses that there is a need to take care of people in community, and that the issue has to do with benefits and fairness.
<b>TAPE 19, B</b>		
015	Chair Fisher	States that the taxpayer needs to be involved in this process. Notes that Oregon is in the forefront of community based care, and supports keeping people in their home as long as possible.
070	Sen. Castillo	Remarks that the state eventually pays through public services provided or through salaries.
084	Chair Fisher	States that providing public services is advantageous, but program improvements are needed. Discusses problems with the Federal Government
133	Peppers	States that the bill does not change current practices. Concludes that this bill could be an opportunity to discuss workers' conditions.
145	Chair Fisher	Concludes that he wants to review the facts relating to displaced workers from Fairview. Closes public hearing on SB 311 and adjourns the meeting at 9:30 AM.

Submitted By, Reviewed By,

Andrew Morris, Sandy Thiele-Cirka,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 422, -1 amendments, Staff, 1 p**

**B ñ SB 310, Written testimony, Charlotte Duncan, 9 pp**

**C ñ SB 311, -1 amendments, Staff, 1 p**

**D ñ SB 311, Written testimony, MHDDSD, James Toews, 1 p**