

SENATE COMMITTEE ON PUBLIC AFFAIRS

May 24, 1999 Hearing Room 50

1:00 P.M. Tapes 53 ñ 54

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Sen. Dukes, Vice-Chair

Sen. Marilyn Shannon

Sen. Charles Starr

Sen. Thomas Wilde

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: HJR 21 Work Session

HB 2743-A Public Hearing and Work Session

HB 2176A Public Hearing and Work Session

SB 1322 Public Hearing

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 53, A		
003	Chair Derfler	Calls the meeting to order at 1:05 p.m. Opens a work session on HJR 21.
<u>HJR 21 WORK SESSION</u>		
008	Sen. Shannon	MOTION: Moves HJR 21 to the floor with a BE ADOPTED recommendation and BE REFERRED to the committee on Rules and Elections.

010		<p>VOTE: 3-0-2</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 2 - Dukes, Starr</p>
	Chair Derfler	The motion CARRIES.
		Additional testimony regarding HJR 21 was submitted for consideration by the committee (EXHIBIT A).
011	Chair Derfler	Closes the work session on HJR 21 and opens a public hearing on HB 2743-A.
<u>HB 2743A PUBLIC HEARING</u>		
013	Brian E. Smith	Committee Administrator. Gives a brief description of the bill. Says the Capital Planning Commission is currently authorized only to acquire property, not dispose of it. Indicates that the bill would also allow the commission to investigate reductions in state buildings and grounds and to approve agency proposals for reductions.
033	Chair Derfler	Requests confirmation that the commission does not have the authority to make such decisions and can only be consulted regarding them.
035	Carl Myers	Chair, Capital Planning Commission. Testifies in support of HB 2743-A. Responds affirmatively. Says the commission has statutory authority to review all purchases of property and capital improvements in Marion and Polk counties. Explains that the commission does not have the explicit right to review any disposition of property, although it has done so in the past. Comments that it is the desire of the bill's sponsor, Rep. Kevin Mannix, that the authority should be expressed in statute.
048	Sen. Shannon	Comments that the process probably does not apply to right-of-way land purchased by the Oregon Department of Transportation (ODOT).
050	Myers	Concurs with Sen. Shannon. Explains that the policy of review applies only to properties with a comprehensive land use plan.
058	Chair Derfler	Closes the public hearing on HB 2743-A and opens a work session on HB 2743-A.
<u>HB 2743A WORK SESSION</u>		
062	Sen. Wilde	MOTION: Moves HB 2743-A to the floor with a DO PASS recommendation.

064		<p>VOTE: 3-0-2</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 2 - Dukes, Starr</p>
	Chair Derfler	<p>The motion CARRIES.</p> <p>SEN. WILDE will lead discussion on the floor.</p>
065	Chair Derfler	Closes work session and opens public hearing on HB 2176-A.
<u>HB 2176-A PUBLIC HEARING</u>		
071	Tom Johnson	<p>Assistant Administrator, Oregon Health Division. Testifies in support of HB 2176-A. Explains that the A-engrossed version differs from the original by continuing the exemption from certification requirements for 900 small drinking water operators. Indicates that the Environmental Protection Agency (EPA) has threatened to reduce by 20 percent the state's drinking water revolving fund if the exemption continued. Describes the drinking water revolving fund. Acknowledges that maintaining the exemption is necessary for the bill to pass, mentioning that the division will continue to develop an acceptable system for small operators so as to avoid the EPA penalty.</p>
105	Chair Derfler	Requests clarification that there are 900 small systems, of which the revolving fund brings four into compliance each year.
115	Johnson	<p>Clarifies that the small systems are exempt from certification requirements. Explains that the EPA penalty represents \$2 million, which is enough to provide necessary capital improvements on four small systems.</p>
128	Sen. Shannon	Inquires whether Portland is held to a separate standard for drinking water than are smaller towns.
135	Johnson	Replies that is a separate issue. Explains that all drinking water must meet a single standard and that some communities do not require filtration due to the quality of accessible water.
146	Sen. Shannon	Asks whether Portland would be fined as a result of the \$2 million penalty.
148	Johnson	States the result would be \$2 million less that would be available to help small drinking systems meet standards. Expresses doubt that the penalty would affect Portland or other large systems.

166	Dave Leland	Manager, Drinking Water Program, Oregon Health Division. Says the EPA requires a minimum administrative penalty for large systems, which the bill would set at \$1,000. Comments that there has been no need to assess a civil penalty against a large system in the past.
189	Sen. Shannon	Expresses a desire to require Portland and Salem to share the burden with smaller communities.
191	Leland	Mentions that the EPA considers cities with a population greater than 10,000 to be a large water system.
194	Chair Derfler	Wonders why the bill is necessary if Oregon has never imposed a fine.
196	Leland	Replies that there is a need to demonstrate that Oregon requirements are sufficient in order to prevent the EPA from imposing its own requirements.
202	Sen. Wilde	Asks why changes are made in section 4 regarding sewer treatment works.
213	Leland	Responds that the changes relate to the certification of water system operators. Says Oregon operator requirements fall short of EPA guidelines in that they offer small system exemptions and do not require sufficient continuing education units.
250	Chair Derfler	Requests confirmation that federal funds are contingent upon passage of the bill.
254	Leland	Replies that the bill deals with issues related to administrative penalties and definitions that will determine whether Oregon carries on the entire funding program. Suggests that is a bigger issue than the \$2 million that will be lost by maintaining the exemption.
261	Doug Wise	Chair, Drinking Water Advisory Committee (DWAC). Testifies in support of HB 2176-A. Lists the various associations holding membership on the DWAC. Suggests that an exemption for small systems hinders the ability of the state to insure safe drinking water for all, but that continuing the program is important enough to forego its elimination.
298	Sen. Shannon	Expresses concern that some cities are putting raw sewage into the water.
324	Leland	Explains that the Department of Environmental Quality (DEQ) is responsible for waste water management, while the Health Division addresses only drinking water.
336	Sen. Shannon	Asks if the bill increases the fine for both drinking water and waste management-related violations.

337	Leland	Replies that the bill increases fines only for violations related to drinking water.
341	Sen. Dukes	Wonders if the bill also impacts private water systems.
347	Johnson	States that many privately-held systems are considered public systems for certain subdivisions. Explains that a system must serve four or more connections and 10 or more persons for at least 60 days each year to be considered a public system.
384	Sen. Dukes	Notes that the bill does not refer specifically to public water systems.
394	Leland	Says the definition of a public water supply given above is set in statute. Submits it is unlikely that a private system would serve a large number of people, despite the fact that the division relies upon the number of connections rather than the number of people using a system for its calculations.
400	Chair Derfler	Closes the public hearing on HB 2176-A and opens work session HB 2176-A.
<u>HB 2176-A WORK SESSION</u>		
412	Sen. Shannon	MOTION: Moves HB 2176-A to the floor with a DO PASS recommendation.
415		VOTE: 4-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Starr
	Chair Derfler	The motion CARRIES. SEN. WILDE will lead discussion on the floor.
419	Chair Derfler	Closes the work session on HB 2176-A and opens a public hearing on SB 1322.
<u>SB 1322 PUBLIC HEARING</u>		
TAPE 54, A		
001	Chair Derfler	Offers a brief overview of the Workman's Compensation system. Explains that an insurance carrier has 90 days to determine whether a claim will be covered as a work-related injury. Says the worker receives 66 2/3 percent of pay after 14

		days, although the medical bills are not paid if the claim is denied. Indicates that insurers have found a loophole to avoid handling situations properly. Inquires as to what percentage of workers are insured through health maintenance organizations (HMOs).
023	Chris Davie	Representative, State Accident Insurance Fund (SAIF) Corporation. Indicates that approximately 60 percent of employees statewide belong to an HMO.
025	Chair Derfler	States that he introduced the bill to address the problem, as previous legislation has failed to do so. Asserts that prompt medical treatment is the best way to return workers to the job and that the bill can assist workers in receiving treatment.
040	Davie	Testifies in opposition to SB 1322 (EXHIBIT B). Indicates there are amendments that will be introduced at a later time. States that SB 1322 creates an obligation to pay medical benefits in claims that are not compensable, until such time as the claim is denied. Comments that such a practice does not occur in any other type of insurance.
062	Chair Derfler	Mentions that employers continue to pay time-loss while a claim is being decided.
064	Davie	Concurs that workers receive time-loss benefits. Clarifies that there is a 14-day waiting period following notification of the claim. Comments that all relevant determinations can be made during that 2-week span. Submits that the time-loss benefit was designed to prevent employers or insurance companies from delaying an investigation into a claim. Says a worker can currently receive over \$7,000 in compensation for a claim that is denied at the end of the 90-day period.
090	Sen. Dukes	Inquires how many claims are eventually denied.
092	Davie	Replies the initial statewide average is between 17-19 percent, although many such cases are successfully appealed or settled at a later time. Mentions that the bill could result in an increase in fraudulent claims, as employers and insurance companies would have no way to recoup benefits already paid following a denial. States that there are no laws in Oregon dealing with insurance fraud, making prosecution of fraudulent claims impossible.
110	Sen. Wilde	Asks if a bill was introduced during the 1997 Session to address insurance fraud.
113	Davie	Replies that the Governor vetoed such a bill. Comments that the bill would create an incentive to delay claim filing, to coincide with the scheduling of a medical procedure. States SB 1322 would have a "disproportionate negative impact" on small businesses, whose employees are less likely to have health insurance through their employer.
131	Chair Derfler	Says the problem is that employees with health care are denied health benefits following Workman's Compensation denial.

135	Davie	Explains that benefits are not paid while a claim is in deferred status.
140	Chair Derfler	Comments that denials have occurred in the past year for cases involving Blue Cross.
143	Davie	Says most providers will generally not pay for work-related claims. Adds that payment is usually made once sufficient proof has been given that the injury or condition is not work-related. Estimates that the program would cost \$10 million annually, equivalent to a 1-2 percent increase in premium rates.
162	Sen. Wilde	Inquires how much SAIF returned in dividends in 1998.
163	Davie	Replies that there were \$120 million in dividends returned.
164	Sen. Wilde	Submits that the \$10 million increase would not necessarily raise premiums, but rather would reduce dividends by \$10 million.
165	Davie	Explains that dividends are not related to premium rates, which are based upon the industry loss experience.
175	Sen. Wilde	Asserts that they are related.
177	Davie	Comments on the date of filing requirements. Says there are contradictions regarding payment for claims prior to receipt of notice of denial.
192	Chair Derfler	Asks Mr. Davie if he believes that the problem exists.
194	Davie	Replies that the problem is the coordination of insurance and Workmanis Compensation prior to denial of a claim.
204	Lisa Trussell	Representative, Associated Oregon Industries (AOI). Testifies in opposition to SB 1322. Says the bill will encourage the filing of claims even by those with health plans, depending on their deductible. Comments that payment of benefits prior to receipt of notice is inconsistent with the rest of the statute. Discusses the possibility of "Monday morning claims filings." Notes that the Oregon Self-Insurers Association (OSIA) has submitted testimony (EXHIBIT C) expressing opposition to the bill.
254	Chair Derfler	Reiterates that insurance companies have up to 90 days to deny claims. Inquires how treatment should be administered during the time it takes to verify a claim.
259	Trussell	Acknowledges there is a loophole, but indicates she is not convinced there are many employees who are not receiving needed treatment. Expresses concern regarding the \$10 million cost estimate, adding that such an incentive to file claims could raise the cost.

275	Chair Derfler	States there is the possibility that employees can currently be forced to wait 90 days for treatment, only to be denied at the end of the period.
285	Trussell	Acknowledges the possibility of such a situation. Mentions that there have been situations where treatment is administered immediately, with payment worked out later.
297	Chair Derfler	Inquires how the situation would work for small businesses that do not carry health care for their employees.
300	Trussell	Replies that the employee would be responsible for the cost of care.
304	Davie	States that workers do receive treatment while the claim is deferred. Explains that routine care is provided prior to payment and that problems arise only in cases involving surgery or other expensive procedures.
321	Bob Shiprack	Representative, Oregon Building and Construction Trades Council. Says that the issue is one of the worst problems that remains to be addressed with regard to workers compensation. Comments that hospitals often will refuse admittance if payment has not been determined. Expresses frustration that employers have had problems getting skilled workers back on the job due to an inability to schedule procedures.
356	Shiprack	Says the fiscal impact of the bill is "remarkably low" and would not cause a rate increase. Suggests that delays in treatment often cause the final medical bill to be higher than necessary. Notes that many workers consider the issue to be of primary importance. Asserts that the bill would save the system money and is "the right thing to do." Offers to work with the committee to correct the oversight.
400	Sen. Wilde	Expresses appreciation to the chair for bringing the bill forward. Offers a personal testimonial of the negative effects of delaying needed medical treatment.
425	Chair Derfler	Reiterates that amendments will be forthcoming. Closes the public hearing on SB 1322. Adjourns the meeting at 2:05 p.m.

Submitted By, Reviewed By,

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Transcribed By,

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EXHIBIT SUMMARY

A ñ HJR 21, testimony, staff, 1 p.

B ñ SB 1322, testimony, Chris Davie, 2 pp.

C ñ SB 1322, testimony, staff, 4 pp.