

SENATE COMMITTEE ON PUBLIC AFFAIRS

May 5, 1999 Hearing Room 50

2:30 P.M. Tapes 45-46

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Charles Starr

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Eileen Qutub

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 770 Public Hearing and Work Session

SB 730 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 45, A		
000	Chair Derfler	Opens meeting at 2:30 p.m. and opens public hearing on SB 770.
<u>SB 770 PUBLIC HEARING</u>		
002	Bill Perry	Oregon Restaurant Association. States that if employees are released from employment due to misconduct, they are unable to come back at a later date and collect unemployment.
014	Annette Talbott	Oregon Employment Department. Presents (EXHIBIT A) . States she has no policy concerns about SB 770. States SB 770 does not effect benefits. States that the charges will go to employers' accounts or be spread among all employers. States that there is a subsequent referral to the Ways and Means Committee.

036	Betsy Earls	Associated Oregon Industries (AOI). Supports SB 770.
043	Chair Derfler	Closes public hearing and opens work session.
<u>SB 770 WORK SESSION</u>		
044	Sen. Starr	MOTION: Moves SB 770 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
		VOTE: 4-0 EXCUSED: 1 - Sen. Qutub
048	Chair Derfler	Hearing no objection, declares the motion CARRIED.
054	Chair Derfler	Closes work session on SB 770 and opens public hearing on SB 730.
<u>SB 730 PUBLIC HEARING</u>		
055	Jennifer Webber	Attorneys Oregon Workers' Compensation. States that SB 730 has been heard before the Management Labor Advisory Committee and they have proposed several amendments.
066	Randy Elmer	Attorney, Salem. Presents (EXHIBIT B) . Supports SB 730. States that the current Workers' Compensation Act does not allow for claimants attorneys to be paid for representing insured workers before the Department of Consumer and Business Services, at the first level of review. Attorneys are paid at the second level of review only. Feels that injured workers should have access to the review system.
082	Chair Derfler	Asks to clarify the process.
084	Elmer	States that currently, an injured worker who has an accepted claim and is seeking benefits may often have a dispute with the insured employer over medical service issues. States this may entail the right to an additional attending physician, reimbursement for prescriptions, reasonable surgeries and procedures, and mileage reimbursement. States that in many cases there is a dispute as to whether the employees are entitled to vocational and rehabilitation benefits.

134	Elmer	States the attorney represents a client through the first level of review without pay, in order to get compensation for the entire case. Feels that because of this, there are going to be fewer attorneys willing to represent these claimants and they will be struggling to represent themselves. SB 730 will allow attorneys to be paid, which will give them an incentive to represent these workers.
154	Diana Godwin	Representing various physical therapy providers. Presents (EXHIBIT C) . Supports SB 730. States there is an issue with workers' compensation system denying benefits to claimants for physical therapy sessions. States that because of this, she must spend her time resolving these issues, free of charge. States that she has drafted amendments and reads from the exhibit.
323	Chair Derfler	Asks if physical therapy charges incurred can be collected from the regular insurance provider.
325	Godwin	States no, compensable claims are denied.
346	Chris Davie	SAIF Corporation. Presents (EXHIBIT D) . Opposes SB 730. Explains that in 1990, in an attempt to reduce litigation, there were administrative processes set up within the Workers' Compensation Division. States that this is not a hearing, it is a presentation of the facts and the record of medical issues. Says that medical experts will make a decision as to the appropriate action to take, at that time. States that this is not considered to be "litigation" and a worker should not need to be represented.
371	Chair Derfler	Asks Davie, if a case proceeds and has not been properly represented, if the individual in the case could be at a disadvantage.
375	Davie	States there may be situations where an attorney is able to make a difference in this type of action. States that if there is a medical dispute at the time of record, then a medical arbiter is appointed.
425	Davie	States that in particularly involved situations, an attorney would be advised but in most cases this is not necessary. States that there are a large number of individuals who do win and win without an attorney.
TAPE 46, A		
001	Fred VanNatta	Liberty Northwest Company. Supports SB 730. Opposes the contingency fee and the language in SB 730, but believes there needs to be some system to assure the injured employee fair representation and that an attorney will be paid for their contribution. States that he would like to keep this as administrative as possible vs. a contested case hearing.
020	Vance Day	Represents injured workers. States accountability for insurers is necessary. States that SAIF stated that the record at the first level is not considered litigation but he disagrees with this statement. Explains an example of an injured worker and how SAIF took advantage of the system.

070	Day	States that if attorney fees are granted at the first level, there will be less contesting. States accountability is necessary even if that is in the form of attorney fees.
084	Jim Eagan	Lawyer, Albany. Presents (EXHIBIT E) . States that stewardship dictates a look at inequities. States that SB 730 is an incremental change to adjusting the benefits to employers. States the bottom line is that SAIF has lawyers preparing cases and clearly has an advantage over a claimant. States that attorney fees at this level are appropriate, but they should not be contingent fees.
140	Chair Derfler	Suggests discussing SB 730 with the Governor's office. Closes public hearing on SB 730 and adjourns meeting at 3:20 p.m.

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,

Administrative Support Administrator

Transcribed By,

Paula Merritt,

Administrative Support

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EXHIBIT SUMMARY

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A ñ SB 770, written testimony, Annette Talbott, 7 pp

B ñ SB 730, written testimony and charts, Randy Elmer, 11 pp

C ñ SB 730, proposed amendments, Diana Godwin, 1 p

D ñ SB 730, written testimony, Chris Davie, 1 p

E ñ SB 730, written testimony, Jim Eagan, 1 p