

SENATE COMMITTEE ON PUBLIC AFFAIRS

July 19, 1999 Hearing Room B

4:30 p.m. Tapes 106-107

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Marilyn Shannon

Sen. Veral Tarno

Sen. Thomas Wilde

STAFF PRESENT: Brian Smith, Administrator

Patrick Brennan, Administrative Support

MEASURES HEARD: HB 3607-A Work Session

HB 2648-B 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 106, A		
003	Chair Starr	Calls the meeting to order at 5:17 p.m. Opens a work session on HB 3607.
<u>HB 3607 WORK SESSION</u>		
013	Rep. Jackie Winters	House District 31. Testifies in support of HB 3607. Says that the amendments are a result of negotiations with the Governor and the Bureau of Labor and Industries (BOLI).
022	Chair Starr	Confirms that there is consensus in the amendments that will be recommended.

023	Rep. Winters	Acknowledges that a working group has approved the recommended language.
029	Sen. Dukes	Wonders why the bill was referred back to committee.
031	Chair Starr	Says the bill was recalled at the request of the Governor and sent back to the committee. -1 amendments are available for consideration (EXHIBIT A) .
040	Sen. Wilde	Asks who determines penalties.
045	Rep. Winters	States that BOLI will determine penalties.
049	Sen. Dukes	Confirms that Section 1 is all that remains of the bill.
052	Rep. Winters	Explains that conceptual amendments need to be made to the bill.
065	Rep. Dan Gardner	House District 13. Proposes the conceptual amendment on line 13, to delete "may not exceed" and insert "shall be".
069	Sen. Wilde	Confirms that the conceptual amendment makes this a requirement.
071	Sen. Dukes	Asks how the conceptual amendment differs from existing law.
073	Brian Smith	Committee Administrator. Explains the change from existing law.
085	Janet Whitfield	Intergovernmental Affairs Coordinator, Bureau of Labor and Industries. Explains the amendment is to the enrolled bill that now includes several penalties to wage violations.
100	Sen. Dukes	Says she has no record of passing the bill with the included language.
109	Whitfield	Discusses the amendment to the bill.
110	Sen. Dukes	Confirms that additional language will remain in the bill.
113	Sen. Wilde	Asks if the conceptual amendment was agreed to by all parties.
116	Rep. Gardner	Replies that it was a concern that came up in the discussions.
121	Sen. Wilde	Asks if there was discussion about BOLI being flexible to determine a penalty of 100 percent or less than 100 percent.

125	Rep. Gardner	Indicates that the 10-day notice could come from an attorney, BOLI, or an employee. Suggests that the goal is to have a disincentive for employers continuing certain practices.
129	Rep. Winters	States that flexibility will rest with BOLI.
130	Sen. Wilde	Confirms that the flexibility is not retained with the conceptual amendment.
132	Sen. Tarno	Asks if BOLI wants particular language in the bill.
134	Whitfield	States that BOLI likes the "may not exceed" language
135	Sen. Tarno	Confirms that BOLI does not want the conceptual amendment.
137	Sen. Shannon	MOTION: Moves to FURTHER AMEND the HB 3607-1 amendments on page 1, line 13, by changing "may not exceed" to "shall be".
138	Sen. Shannon	Suggests that it is not appropriate for an employer not to pay.
141	Sen. Wilde	Suggests that if BOLI saw a pattern of violations they should charge the full amount possible.
143	Sen. Shannon	Does not agree with the statement.
148	Whitfield	Explains the process by which employers are notified by BOLI, after which investigations take place. Says that if the investigation is positive, there is an order to pay termination wages.
162	Sen. Shannon	Asks what happens if an employer chooses not to pay the termination wages.
164	Whitfield	Explains that there is no civil penalty for not paying wages. Suggests that BOLI would like to charge the full penalty of the wages.
169	Sen. Shannon	Asks if a former employee needs to sue for wages or if BOLI can assist.
172	Whitfield	Clarifies that BOLI does not have a civil penalty to charge.
178	Sen. Shannon	Continues to wonder what happens when an employer chooses not to pay wages when they are not forced to. Asks if BOLI will litigate.
184	Whitfield	Suggests that a majority of cases are resolved before litigation is needed.

190	Sen. Shannon	Asks Rep. Winters what happens if an employer chooses not to pay wages.
192	Rep. Winters	States that she has never chosen not to pay a salary. Explains that BOLI will retain the ability to assess a civil penalty. Indicates that the penalty is for those employers who deliberately choose not to pay, whereas Section 1 of the bill is aimed at employers who do not deliberately choose not to pay.
212	Sen. Shannon	Asks if BOLI can revoke any licenses.
214	Whitfield	Explains that they can only assess the \$1,000 penalty, as outlined in HB 3607.
219	Sen. Dukes	Asks why the legislature wants to cut a break for employers who fail to pay their penalties and wages.
222	Rep. Winters	Replies that the \$1,000 penalty is for willful disobedience and Section 1 is aimed at employers who are not willfully disobedient.
224	Sen. Dukes	Suggests that both penalties are for willful violations.
227	Rep. Winters	Explains that "willful" is referring to the fact that the wages were not paid.
230	Sen. Dukes	Stresses that the bill also addresses those people who choose not to pay wages or penalties.
233	Rep. Winters	Clarifies provisions of the measure.
244	Sen. Dukes	Suggests that employers must be saving money somewhere or there would be no reason for the bill.
247	Whitfield	Clarifies that the definition of "willful" is related to the fact that an employer should know what the law is and what is required of them.
250	Sen. Dukes	Asks what happens to those employers who know the law and choose not to pay.
256	Whitfield	States that the bill allows for civil penalties to be assessed. Suggests that the amendment encourages an employer to pay within 10 days rather than stalling.
282	Sen. Tarno	MOTION: Moves to ADOPT HB 3607-1 amendments.
286	Rep. Winters	Asks if the amendment will be conceptually amended.
289	Chair Starr	Indicates that the amendment has not been conceptually amended.

291	Rep. Gardner	Asks that the amendment be conceptually amended.
293	Sen. Tarno	MOTION: WITHDRAWS his previous motion.
295	Chair Starr	The motion is to conceptually amend the -1 amendment on page 1, line 13, by deleting "may not exceed" and inserting "shall be".
301	Rep. Winters	Clarifies that the conceptual amendment should not be included.
309	Sen. Shannon	Confirms that there is no desire for the conceptual amendment.
310	Rep. Gardner	Indicates that he would still like the conceptual amendment.
312	Sen. Shannon	Asks why BOLI does not want the conceptual language.
315	Whitfield	Explains that BOLI works very hard to get employers to pay termination wages, and they won't assess a fine until it is really needed.
321	Sen. Dukes	Suggests that employers will have a greater understanding of the laws that affect them.
326	Sen. Shannon	Suggests that the proposed conceptual amendment should strengthen BOLI's ability to get termination wages for employees.
329	Sen. Wilde	Provides some clarification.
356	Whitfield	Provides clarification about the amendment.
358	Sen. Shannon	MOTION: WITHDRAWS her previous motion.
360	Sen. Tarno	MOTION: Moves to ADOPT HB 3607-1 amendments dated 7/19/99.
		VOTE: 4-1 AYE: 4 - Shannon, Tarno, Wilde, Starr NAY: 1 - Dukes
368	Chair Starr	The motion CARRIES.

370	Sen. Tarno	MOTION: Moves HB 3607 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-1 AYE: 4 - Shannon, Tarno, Wilde, Starr NAY: 1 - Dukes
375	Chair Starr	The motion CARRIES. SEN. STARR will lead discussion on the floor.
380	Chair Starr	Closes the work session on HB 3607 and opens a work session on HB 2648.
<u>HB 2648 WORK SESSION</u>		
395	Rep. Mark Simmons	House District 58. Testifies in support of HB 2648 and offers the -B12 amendments for consideration (EXHIBIT B). Explains that the amendments are related to SB 961. Indicates that there has been an agreement to do an interim study on attorney fees and that Sections 1 and 2 of the amendment should be deleted. Explains that Sections 3 and 4 of the amendment are related to HB 2938 and the ability for counties to receive free services from the Oregon Department of Transportation. Discusses provisions of the amendment.
TAPE 107, A		
027	Sen. Dukes	Asks for clarification on part of the amendment and why only some counties should receive these free services.
030	Rep. Simmons	Explains the costs per county per equivalent road mile and how those costs vary in each county. Indicates that this will continue to help the poorest of the poor counties.
040	Sen. Dukes	Confirms that all counties receive this service now.
041	Rep. Simmons	Indicates that counties must request the assistance. Explains that in some cases good engineering jobs are being contracted out of the state.
048	Sen. Dukes	Asks if this assistance will only go to counties who have not chosen to pass road levies to cover the cost of maintenance.
050	Rep. Simmons	Explains that some of the poorer counties have relied on timber receipts to help with the maintenance of their roads.

054	Sen. Dukes	States that her county has a separate road district to cover the cost of maintaining roads. Asks if the state should pay for counties who have chosen to not create a road fund.
059	Rep. Simmons	Indicates that all counties currently have the option for assistance, but perhaps only the poorest counties need the option.
061	Sen. Dukes	Confirms that this amendment will take the option away from some counties.
063	Chair Starr	States that the option has been taken away from all counties in HB 2938.
064	Rep. Simmons	Explains that the amendment will give the option back to some counties
065	Bill Penhollow	Representative, Association of Oregon Counties (AOC). Says that some counties would still have the ability to operate, despite losing the ability to fund themselves. Explains that some counties have had an abrupt loss of revenues. Suggests that the calculation method for allocation is equitable.
101	Sen. Dukes	Explains that small county allotment is already coming from every county's road fund. Suggests that it is not fair to take the option away from all counties and restore it to some.
109	Chair Starr	Explains that the original intent was to have private, local engineers to complete the work, as financed by ODOT. Suggests that this will allow private individuals into the formula.
128	Sen. Dukes	Suggests that there is no reason to believe that restoring the language will encourage private contractors to get contracts.
132	Chair Starr	Agrees that is true and that is why 100% of counties will not receive the option.
136	Rep. Simmons	Focuses on the issue that some counties have very little money to address the needs of maintaining their roads.
160	Sen. Shannon	Asks if counties may currently request assistance. Asks if counties can select their own method of paving.
173	Penhollow	Clarifies the intention of the bill. Agrees that county officials are always looking for ways to reduce the cost of improving and maintaining roads. States there is a huge unmet need in the county road system.
190	Sen. Shannon	Confirms that ODOT does not need to approve the system a county uses for paving.

211	Sen. Dukes	States that Washington County is returning some of their roads to gravel also.
216	Sen. Tarno	Confirms that the amendment replaces the entire measure.
218	Chair Starr	Answers affirmatively.
220	Sen. Shannon	Asks if the relating clause will be amended.
226	Rep. Simmons	States that it will not be amended.
229	Sen. Tarno	Asks what will happen to the original measure.
232	Chair Starr	Suggests that there is a dilemma with the bill.
236	Brian Smith	Committee Administrator. Explains that the relating clause will remain the same. States that the committee has been advised that the lobbying and transportation issues are not germane to each other.
244	Sen. Dukes	Wonders how faith-healing and animal fur are germane to each other.
248	Sen. Shannon	States that she likes the amendment and the bill, and would like both.
272	Chair Starr	Closes the work session on HB 2648. Adjourns the meeting at 6:08 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Jennifer Peck,

Committee Administrator Senate Committee Coordinator

EXHIBIT SUMMARY

A - HB 3607, -1 amendments, Staff, 1 pg.

B - HB 2648, -B 12 amendments, Rep. Simmons, 4 pp.