

HOUSE COMMITTEE ON LABOR

May 20, 1997 Hearing Room E

8:00 AM Tapes 83 - 84

MEMBERS PRESENT:

Rep. Steve Harper, Chair

Rep. Mike Fahey, Vice-Chair

Rep. Chris Beck

Rep. Dan Gardner

Rep. Bill Markham

Rep. Ron Sunseri

MEMBER EXCUSED:

Rep. John Minnis

STAFF PRESENT:

Cara Filsinger, Administrator

Steve Wermuth, Administrative Support

MEASURE/ISSUES HEARD:

HB 2971 - Work Session

HB 2893 - Work Session

SB 719A - Work Session

SB 484A - 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 83, A		
004	Chair Harper	Calls meeting to order at 8:07 a.m. Opens work session on HB 2971.

HB 2971 - WORK SESSION		
014	Chris Davie	SAIF. Explains -2 amendments [EXHIBIT A]. Suggests deleting the words "or any final order" on lines 5-6. Supports -6 amendments [EXHIBIT B].
045	Rep. Sunseri	MOTION: Moves to ADOPT HB 2971-2 amendments dated 4/23/97.
046	Chair Harper	Hearing no objection, declares the motion CARRIED.
058	Robert C. A. Moore	Oregon Workers' Compensation Attorneys. Explains -4 amendments.
076	Peter Preston	Attorney, Portland. Discusses insurance companies giving claim information to claimants.
112	Preston	Comments that insurance companies currently have the duty to accept or deny claims, and if they do not respond to their duty, suggests giving opportunity to worker as a mechanism to enforce that. Gives example.
137	Rep. Fahey	Asks what -2 amendments do.
138	Preston	Responds that they make the measure retroactive. Explains.
163	Moore	Submits and reads from testimony [EXHIBIT C].
177	Rep. Fahey	Asks which amendments Mr. Moore is proposing.
178	Moore	Responds -4 amendments.
183	Jerry Keene	Attorney. Opposes -4 amendments. Explains.
210	Rep. Fahey	Asks if there is any documentation that shows the worker what the insurer will and will not cover.
212	Keene	Responds yes, at any time if it is requested.
235	Rep. Fahey	Asks why legislation is needed to fix this problem with the -4 amendments.
240	Keene	Responds acceptance was never broadened to say that surgeries are to be paid as well as strains.
261	Rep. Fahey	Asks what happens if disability was a strain and condition was a surgery.
265	Keene	Responds that the surgery has already been paid for.
274	Preston	Explains that insurance accepts a back strain claim. After testing, back strain is found to be a herniated disc, and insurance will no longer accept the claim.
321	Preston	Explains how re-surgeries are sometimes required for back injuries.
350	Keene	States that medical records are provided free once if worker asks for them, and each time worker changes attorneys.
360	Rep. Fahey	MOTION: Moves to ADOPT HB 2971-4 amendments dated 5/12/97.

363		VOTE: 3-3 AYE: 3 - Beck, Fahey, Gardner NAY: 3 - Markham, Sunseri, Harper EXCUSED: 1 - Minnis
368	Chair Harper	The motion FAILS.
377	Bob Shiprack	Co-Chairman, Management Labor Advisory Committee. Explains -6 amendments. States that insurers are precluded from going back on what they may have accepted if they did not appeal once the claim was closed.
TAPE 84, A		
008	Shiprack	Comments that workers' awards can only be evaluated on the acceptance at the time the claim is accepted, explains.
025	Shiprack	States that it has always been done this way. Supports -6 amendments.
032	Jan Reece	Representing United Grocers. Recommends updated acceptance letter which states accepted conditions. States that -6 amendments recommend that at time of claim closure, if there is a new condition which is submitted in writing and is deemed compensable, the claim be reopened to that condition. Gives example of someone having leg pain from back injury.
065	Rep. Markham	Asks who determines pain in leg.
066	Reece	Responds it could be done several ways.
070	Rep. Markham	Asks what the evidence is.
071	Reece	Responds medical evidence.
072	Rep. Fahey	Asks for opinion on -4 amendments.
077	Reece	Responds that they have no copy of -4 amendments, and therefore have no position.
084	Shiprack	States that he saw the -4 amendments yesterday at 4:30 p.m.
096	Rep. Fahey	Comments that many workers do not see their medical records.
102	Shiprack	States that is why -6 amendments are trying to correct the medical records. Gives example of collapsed floor at Hyundai.
120	Chair Harper	Asks if the -6 amendments will fix the problem.
121	Shiprack	Responds that he hopes so.
131	Rep. Fahey	MOTION: Moves to ADOPT HB 2971-6 amendments dated 5/19/97.
133	Chair Harper	Hearing no objections, declares the motion CARRIED.

134	Rep. Sunseri	MOTION: Moves HB 2971 to the floor with a DO PASS AS AMENDED recommendation.
143		VOTE: 5-1 AYE: 5 - Fahey, Gardner, Markham, Sunseri, Harper NAY: 1 - Beck EXCUSED: 1 - Minnis
146	Chair Harper	The motion CARRIES. REP. HARPER will lead discussion on the floor.
157	Chair Harper	Closes work session on HB 2971. Opens work session on HB 2893.
HB 2893 - WORK SESSION		
163	Nicola Cribb	National Federation of Independent Business (NFIB). Explains and supports -6 amendments [EXHIBIT D] which replace previous amendments.
194	Chris Davie	SAIF. States that SAIF originally opposed this bill, but have made an agreement with NFIB. Gives support for -6 amendments.
221	John Booton	Department of Consumer and Business Services.
241	Rep. Markham	MOTION: Moves to ADOPT HB 2893-6 amendments as amended dated 5/19/97.
245	Chair Harper	Hearing no objections, declares the motion CARRIED.
249	Cribb	Explains HB 2893.
278	Chair Harper	MOTION: Moves HB 2893 to the floor with a DO PASS AS AMENDED recommendation.
283		VOTE: 6-0 AYE: 6 - Beck, Fahey, Gardner, Markham, Sunseri, Harper EXCUSED: 1 - Minnis
292	Chair Harper	The motion CARRIES. REP. BECK will lead discussion on the floor.
294	Chair Harper	Closes work session on HB 2893. Opens work session on SB 719A.

<u>SB 719A - WORK SESSION</u>		
299	Bob Shiprack	Oregon Building Trades Council. Suggests changing "may" to "shall" in line 5 of the -A2 amendments. Suggests amending line 31 on page 2 of the original A-Engrossed bill by changing "once" back to "twice."
330	Rep. Beck	Confirms that deleted language is being suggested to be put back in.
338	Jeanne Arana	States that Association of General Contractors (AGC) is in support of -2 amendments.
348	Shawn Miller	Associated Builders and Contractors (ABC) [EXHIBIT E]. Supports -2 amendments.
363	Rep. Fahey	Asks what initiates the "shall" consider.
367	Shiprack	Responds that data is insufficient.
380	Rep. Fahey	Asks how would commissioner know if he did not have something to compare it to.
388	Miller	Responds that this amendment allows commissioner to use all data that is available.
407	Rep. Fahey	States that it is up to the commissioner whether he wants to use all available data or not.
436	Shiprack	Says he is not sure and would have to look at it.
437	Rep. Fahey	Comments that commissioner does not have to look at anything else if he does not want to.
<u>TAPE 83, B</u>		
002	Jeanne Arana	Gives reasons for -2 amendments. Suggests restoring the language in the A-Engrossed bill lines 9-11.
018	Rep. Beck	Believes that intent of section 2 of the bill is fine, and section 1 is fine as it is.
023	Chair Harper	Closes work session on SB 719A. Opens public hearing on SB 484A.
<u>SB 484A - PUBLIC HEARING</u>		
038	Kevin Mannix	Attorney, Salem. Explains SB 484A. Discusses liens on settlements of over \$1 million and limitations put in the bill.
084	Chair Harper	Asks if worker has opportunity to make that choice currently.
084	Mannix	Responds no. Explains SB 484A further. Gives provisions of the bill.
106	Chair Harper	Asks if other provisions are related to the bill.
109	Mannix	Responds that they are in the bill but not related.

110	Rep. Sunseri	Asks if elected official is injured and guaranteed a salary while time expires, how would that work.
114	Mannix	Responds that bill says as long as official is getting salary, will receive no time loss pay.
120	Rep. Gardner	Asks about official's salary if it is less than time loss benefits.
123	Mannix	Responds he does not believe anyone's salary would be less.
127	Rep. Fahey	Asks about part-time legislators.
130	Mannix	Responds bill states that only legislative salary would be received.
138	Rep. Fahey	Asks about legislator getting hurt in fifth month of session.
142	Mannix	Responds he does not know.
155	Mannix	States the elected official who brought about this legislation insisted on collecting salary as well as time loss. Says that if legislator foregoes salary and wants to receive time loss, that would be an option.
167	Rep. Gardner	Asks if anyone is allowed to refuse the salary.
168	Mannix	Responds he supposes someone could refuse, but in past those who have refused salary have had to pay the state for the difference.
186	Dave Fiskum	Representing Providence Health Systems. Introduces Karen McNamee and Jerry Keene. Gives concerns related to page 3, lines 7-9 and page 6, lines 3-5, the language "opportunity to discuss."
202	Chair Harper	Asks if we know where this amendment came from.
203	Fiskum	Responds when he first saw the bill, was a different version.
210	Karen McNamee	Program Manager, Providence Vantage [EXHIBIT F] . Requests provision for informing medical provider be maintained.
227	Chair Harper	Confirms changes sought by Mrs. McNamee.
228	McNamee	Responds correct.
229	Rep. Gardner	Asks if in process of denial, is there discussion as to why someone was denied.
230	McNamee	Responds often.
236	Rep. Fahey	Asks most common reason for excluding a provider.
238	McNamee	Responds access. States there is generally no geographic need.
240	Rep. Fahey	Says that he is asking about medical providers that are being rid of.
242	McNamee	Responds it does not happen that often.
245	Rep. Fahey	Asks if it does not happen that often, what costs involved.
246	McNamee	Responds that these are memberships applied for by people who are not members yet.
249	Rep.	Asks if Providence Vantage has freedom to deny membership.

	Markham	
249	McNamee	Responds certainly.
255	Jerry Keene	Representing Legacy Systems [EXHIBIT G]. Comments this would not effect physician's response to denial of membership.
275	Rep. Markham	Asks if a doctor can force his way into an organization by appealing to the state.
277	Keene	Responds there are limitations of discrimination.
300	Rep. Fahey	Asks Mr. Keene if he represents Legacy.
301	Keene	Responds yes.
304	Rep. Fahey	Asks if he also represents Liberty Northwest.
306	Keene	Responds on occasion.
308	Rep. Fahey	Asks if he knows how or why this provision got into the bill.
310	Keene	Responds that he saw it for the first time yesterday and is not objectionable to providing a written explanation.
318	Fiskum	Comments that Labor Management Committee agreed not to oppose these changes.
332	Tom Mattis	Deputy Administrator, Workers' Compensation Division. States that this provision was put into bill at request of a senator.
347	Rep. Markham	Asks the senator's name.
351	Mattis	Responds Senator Yih.
353	Chair Harper	Suggests discussing proposed amendments with the senator.
364	Maria Keltner	Representing county that requested section 7 of the bill. Supports section 7, explains.
383	Rep. Beck	Asks if this time loss is from another job or public job.
384	Keltner	Responds if injured on their public job. Discusses SB 794, and that purpose was to prevent double pay only dealing with injuries that might occur to elected official while performing their elected official work.
TAPE 84, B		
003	Chair Harper	Asks about the language.
004	Keltner	Responds that the language was changed in Senate.
014	Jan Reese	Self-Insured Association. States support for SB 484A except for page 3, line 7 (h). States desire to eliminate the language.
026	Chair Harper	Suggests getting together with Senator Yih and come back next week.
031	Chair Harper	Closes public hearing on SB 484A. Adjourns meeting at 9:32 a.m.

Submitted By, Reviewed By,

Steve Wermuth, Cara Filsinger,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2971, -2 amendments, Staff, 1 p.

B - HB 2971, -6 amendments, Staff, 1 p.

C - HB 2971, written material, Robert C. A. Moore, 19 pp.

D - HB 2893, written material, Nicola Cribb, 1 p.

E - SB 719A, written material, Shawn Miller, 1 p.

F - SB 484A, written testimony, Karen McNamee, 1 p.

G - SB 484A, written testimony, Jerry Keene, 1 p.

H - SB 484A, written testimony of Mike W. McArthur, Staff, 1 p.