

HOUSE COMMITTEE ON LABOR

March 20, 1997 Hearing Room E

8:00 A.M. Tapes 42 - 43

MEMBERS PRESENT:

Rep. Steve Harper, Chair

Rep. Mike Fahey, Vice-Chair

Rep. Chris Beck

Rep. Dan Gardner

Rep. Bill Markham

Rep. John Minnis

Rep. Ron Sunseri

MEMBER EXCUSED:

STAFF PRESENT:

Cara Filsinger, Administrator

Linda Spaulding, Administrative Support

MEASURE/ISSUES HEARD:

HB 2187 Work Session

SB 234 Public Hearing

HB 3125 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 42, A		
005	Chair Harper	Calls meeting to order at 8:04 a.m. Opens work session on HB 2187.
<u>HB 2187 - WORK</u>		

SESSION		
018	Linda Haglund	Oregon State Treasury (EXHIBIT A) Introduces Cynthia Byrnes, Department of Justice (DOJ) and Nancy Crandall, Public Employees' Retirement System (PERS)
029	Haglund	Explains chart outlining current deferred compensation program and proposed program under -4 amendment.
033	Rep. Markham	Asks why local government is pictured three times on chart and state government only once.
036	Haglund	Answers multiple local governments could come into the program.
051	Haglund	Explains chart representing current deferred compensation program in statute, outlining three main elements: * assets * investment management of assets by Oregon Investment Council (OIC) and Oregon State Treasury * program administration overseen by Public Employees' Retirement Board (PERB)
109	Haglund	Explains the same process is followed for local governments.
116	Rep. Markham	Asks consequence of city council choosing not to offer deferred compensation plan to city employees.
121	Haglund	Replies city employee would need to force the issue with the city.
122	Rep. Markham	Asks if the law offers recourse to city employees desiring deferred compensation plan.
123	Haglund	Replies the plan is employee benefit program; if employer chooses not to offer the benefit, the employee may seek another employer who does offer a plan. Explains investment process if city employee chooses State of Oregon plan. Says services to local governments are identical to state plan.
153	Haglund	Refers to chart representing HB 2187-4 (EXHIBIT A, pg. 1). Explains changes as a result of -4 amendments; HB 2187-4 functionally changes the plan from a state-owned asset into a trust.
170	Haglund	Explains process of state employee joining State Deferred Compensation Plan: * dollars deferred into the program * plan overseen by PERB, trustee of the plan * investment fund created to hold assets
196	Haglund	Explains Oregon State Treasury is named "custodian." Administration of the plan follows same format as current statute.

213	Haglund	Explains how -4 amendment affects local government: * city must provide its own deferred compensation plan * must create a trust for contributions
229	Haglund	Clarifies question of last meeting with respect to commingling of funds.
249	Chair Harper	Requests brief description of each section of -4 amendments.
262	Cynthia Byrnes	Assistant Attorney General, Department of Justice (DOJ) (EXHIBIT B) Explains changes initiated by -4 amendments: * revised language makes bill easier to read * treasurer named as custodian * OIC required to establish investment program for deferred compensation fund * sub-accounts track separate state and local government assets * consequence if check fails to reach plan participant * state assets held in trust for benefit of participants * powers and duties of PERB * allows PERB and treasurer to assess fees against account balance to cover administration costs
328	Rep. Sunseri	Asks amount of administration fee.
329	Byrnes	Answers two percent for state plan; treasurer may deduct 25 basis points.
333	Chair Harper	Asks how those fees differ from current statute.
334	Byrnes	Replies no change in fees.
335	Rep. Markham	Asks for reference to two percent fee.
337	Byrnes	Indicates pg. 11, line 18 of -4 amendment.
		Continues listing changes initiated by -4 amendments: * local governments not subject to same investment restrictions under related set of statutes * local governments must meet Internal Revenue Service requirements

353	Byrnes	for deferred compensation plan * contracts with local governments * limits state liability for plan operation * adds deferred compensation fund as separate investment fund * allows monies to be invested in stock and mutual funds
437	Rep. Sunseri	Asks what standard determines a "prudent investor."
TAPE 43, A		
014	Byrnes	Answers well-developed case law discusses prudent investor standard.
016	Chair Harper	Asks for further explanation on World War II veteran's compensation fund.
017	Byrnes	Replies statute was operational for ten years after World War II; allowed a veteran's bonus.
026	Byrnes	Further explains that treasurer can directly invest in mutual funds under direction of OIC.
031	Rep. Markham	Asks if treasurer can invest directly in individual stocks.
032	Byrnes	Answers no.
038	Haglund	Defines differences between securities as individual stocks or mutual funds.
043	Rep. Markham	Asks for specific reference in bill.
044	Byrnes	Answers sections 22 and 23 of the -4 amendment; ORS 293.723 restricts investments.
063	Chair Harper	Asks clarification that fund may purchase individual stocks through investment management service.
065	Byrnes	States authority is given to invest in stock; following statute restricts how investments are accomplished.
075	Byrnes	Explains section 24 adds deferred compensation fund to list of funds allowed to invest in stock.
100	Rep. Markham	Asks for explanation of "Balanced Fund" under number 4 of nine investment options (EXHIBIT A, pg. 3).
108	Haglund	Explains "Balance Fund" is made up by seven of the listed options.
111	Rep. Markham	Asks for explanation of "Stock Index," of listed options (EXHIBIT A, pg. 3).
111	Haglund	Explains three different fund options fall under "Stock Index."
	Rep.	

113	Markham	Asks for identification of the three funds.
114	Haglund	Lists three mutual funds: * S & P 500 Index * Altus Quantitative Equity * Vanguard Index 500
117	Rep. Markham	Asks party responsible for selection of those three funds.
117	Haglund	Answers OIC.
132	Rep. Sunseri	MOTION: Moves HB 2187 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
		AYE: In a roll call vote, all members present vote Aye.
	Chair Harper	The motion CARRIES. REP. MINNIS will lead discussion on the floor.
147	Nancy Crandall	Responds to question with respect to amount in self-insured fund: \$130 million is fund balance with \$81 million in liabilities.
155	Chair Harper	Closes work session on HB 2187. Calls recess at 8:44 a.m.
161	Chair Harper	Reconvenes the meeting at 8:55 a.m. Opens public hearing on SB 234.
<u>SB 234 - PUBLIC HEARING</u>		
169	Steve Telfer	Executive Director, Associated Builders and Contractors (ABC) (EXHIBIT D) Describes current law: * public project contractors unable to schedule non-union work force to 10-hour days, four-day weeks (4/10s) unless paying overtime wage * union contractors are able to schedule 4/10s Says current law discriminates against non-union employees. Submits and explains proposed amendment for Legislative Counsel draft (EXHIBIT D, pg. 2) .
		Eagleview Construction, Estacada

210	Jeff Goodrich	Lists current public projects being performed by Eagleview. Says his employees prefer working 4/10s on public contract jobs; outlines cost advantages to employer.
233	John White	Employee, Eagleview Construction, Estacada Expresses support for SB 234. Lists personal benefits to 4/10 work week: * more time with family and dog * more productive on the job
269	Rep. Fahey	Asks if he has obtained employer's permission to take dog to job site.
271	White	Answers he would like to.
272	Rep. Gardner	Asks if employer will provide notice of 4/10s without a choice given to employees.
277	Telfer	Clarifies issue is "at will" employment; employees may object to 4/10s. It is in contractor's best interest to offer attractive alternatives to retain good employees.
289	Goodrich	Says he offers split-shift 4/10s on non-public projects out of town. Employees have option to work five-day work week.
306	Rep. Gardner	Says nothing is in the bill that gives a split-shift option.
308	Goodrich	Agrees; says he handles situations as described.
309	Chair Harper	Asks if a 5/8s work week is prevalent in construction trade.
317	Goodrich	Answers it is common--half work 5/8s; half work 4/10s.
325	Rep. Sunseri	Asks why law is necessary when system works.
328	Goodrich	Responds he offers flexible schedules on non-public works projects where he can set the pay scale.
336	Telfer	Says distinction is public sector jobs with non-union contracts must pay time-and-a-half at prevailing wage.
350	Rep. Fahey	Asks if quality family time would be possible working 4/10s with no weekend differential, for example, working Thursday through Sunday.
366	White	Says he could live with that schedule.
392	Rep. Minnis	Confirms proposed amendment provides notice at time of hire that 4/10s may be required on the job.
411	Rep. Markham	Asks what percent of state employees are given option of 4/10s.
417	Chair Harper	Responds Rep. Markham's question will be researched and reported to the committee.

TAPE 42, B		
006	Bob Shiprack	<p>Executive Secretary, Oregon Building and Construction Trades Council</p> <p>Gives history on issue under discussion; 1981 legislature rejected idea of opening public contracting to 4/10 concept. Says five-day work week is traditional; describes advantages of 5/8s and problems associated with not defining the work week under 4/10 plan. Outlines non-union 4/10 rules in Washington State law:</p> <ul style="list-style-type: none"> * employees must agree in writing to work 4/10 work week * work week is clearly defined * any exceptions are overtime * Sundays are double time
076	Rep. Minnis	Compares police bureau 4/10s with construction industry work week in that both can change with emergency or unforeseen circumstances.
088	Shiprack	Responds to references for "make-up day." Although infrequent, circumstances could occur making employee protection necessary.
097	Rep. Minnis	Asks how he would correct this bill to protect the employee.
098	Shiprack	Says language for make-up days is feasible. Problems in Washington State occurred in make-up hours on the 4/10 schedule. Says he will talk with Bureau of Labor and Industries (BOLI) in effort to reach compromise.
119	Chair Harper	Asks if alternative is 38-hours of work for the week if some hours are missed during 4/10s week.
120	Shiprack	Answers affirmatively.
122	Rep. Minnis	Asks for confirmation if employee is designated to work 4/10 plan, overtime would be paid on days worked beyond the fourth day.
134	Shiprack	Agrees; states employer must pick the work week, but cannot have both; can make up hours, not days.
147	Rich Peppers	<p>Oregon Public Employees Union (OPEU)</p> <p>Outlines points in written testimony (EXHIBIT E); describes problems that may arise if law is changed. Says small percentage of OPEU bargaining unit employees work 4/10s.</p>
197	Rep. Minnis	Confirms bill does not directly affect OPEU employees.
199	Peppers	Agrees; effect is indirect. OPEU looks outside bargaining units to compare and ensure standard remains high for worker protection.
207	Rep. Minnis	Asks if bill under consideration remains subject to collective bargaining.

208	Peppers	Answers affirmatively.
211	Irv Fletcher	Oregon AFL-CIO Submits statement for the record (EXHIBIT F).
226	David Douthwaite	Government Relations Manager, Associated General Contractors (AGC), Oregon-Columbia Chapter (EXHIBIT G) Supports SB 234 with addition of proposed amendments attached to (EXHIBIT H, pg. 4).
243	Rep. Markham	Asks for clarification of proposed amendments.
244	Douthwaite	Explains provisions in proposed amendments: * requirement for employees with open-shop contractors consent prior to working 4/10s * defines work week as Monday through Friday
258	Rep. Markham	Asks if amendments give employee more choice.
259	Douthwaite	Answers affirmatively.
263	Rep. Markham	Asks if AGC represents both union and non-union contractors.
263	Douthwaite	Answers affirmatively.
264	Rep. Markham	Asks for union and non-union split in AGC.
265	Douthwaite	Replies approximately 60 percent open-shop; 40 percent union.
277	Chair Harper	Closes public hearing on SB 234. Opens public hearing on HB 3125.
<u>HB 3125 - PUBLIC HEARING</u>		
286	Cara Filsinger	Explains differences between SB 234 and HB 3125.
		States AGC supports concept of four-day work week/ten-hour days for public contracts as exemplified in HB 3125. Lists ways public contracting will be improved: * greater flexibility in workplace management * respond to changing demands of public projects

309	David Douthwaite	<ul style="list-style-type: none"> * more weekend family time for employees * reduces traffic congestion at peak travel times * cost savings to taxpayers * retains collective bargaining process * equity to public contract bidding process * equal treatment for open-shop and union employees
385	Jack Hamilton	<p>President, Hamilton Construction; member, AGC (EXHIBIT I)</p> <p>Explains public contract projects; states reasons for support of 4/10 work week.</p>
TAPE 43, B		
007	Dave Weddle	<p>Carpenter foreman, Hamilton Construction (EXHIBIT J)</p> <p>Explains hardships incurred by family when he works 5/8s. Prefers flexible work hours and extended family time under 4/10s; supports HB 3125.</p>
043	Rep. Gardner	Asks if he supports make-up day provision.
052	Weddle	Answers 4/10s allows for scheduling medical appointments on day off.
062	Hamilton	Explains nature of crew commitment rather than single individual making up hours.
067	Rep. Gardner	Says language of bill does not specify type of crew.
069	Hamilton	Says he is unable to speak to bill language; flexibility is desirable for making up time off for inclement weather.
072	Rep. Minnis	Questions amendment offered by AGC appears to mandate by statute unionization or collective bargaining in non-union shops.
075	Douthwaite	Responds that is not his intent. Paul Tiffany, BOLI, agreed to work with AGC on appropriate language.
099	Rep. Minnis	Asks Mr. Shiprack if he participated in drafting AGC amendments.
104	Bob Shiprack	Answers he has worked with AGC to develop changes clearly defining work week.
119	Chair Harper	Asks all entities to meet for purpose of reaching compromise on amendments using SB 234 as base.
132	Jeannie Arana	<p>Associated General Contractors (AGC)</p> <p>Says amendment language based on Washington rules; rule-making</p>

		process belongs with BOLI.
145	Rep. Minnis	Disagrees; says important not to defer authority to agency rule-making.
148	Arana	Requests clarification on specifics with respect to defining work hours and work day issue.
154	Rep. Minnis	Opposes amendment offered by AGC.
155	Chair Harper	Asks to be notified when bill is ready for rescheduling.
158	Shiprack	Says concern lies in writing bill correctly to prevent excessive filing of wage claims.
166	Rep. Fahey	Asks Mr. White the name of dog referenced in testimony.
168	John White	Replies dog's name is Sadie.
170	Chair Harper	Closes public hearing on HB 3125. Adjourns meeting at 9:49 a.m.

Submitted By, Reviewed By,

Linda Spaulding, Cara Filsinger,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2187, written testimony, Linda Haglund, 6 pp

B - HB 2187, written testimony, Cynthia Byrnes, 11 pp

C - HB 2187, written testimony, Nancy Crandall, 39 pp

D - SB 234, written testimony, Steve Telfer, 2 pp

E - SB 234, HB 3125, written testimony, Rich Peppers, 2 pp

F - SB 234, HB 3125, written testimony, Irv Fletcher, 1 p

G - SB 234, written testimony, David Douthwaite, 1 p

H - HB 3125, written testimony, David Douthwaite, 4 pp

I - HB 3125, written testimony, Jack Hamilton, 2 pp

J - HB 3125, written testimony, Dave Weddle, 2 pp