

HOUSE COMMITTEE ON LABOR

April 1, 1997 Hearing Room E

8:00 A.M. Tapes 48 - 50

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

Linda Spaulding, Administrative Support

MEASURE/ISSUES HEARD:

HB 2635 Work Session

HB 2028 Work Session

HB 2808 Public Hearing

HB 2892 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 48, A		
002	Chair Harper	Calls the meeting to order at 8:04 a.m. Opens work session on HB 2635.
<u>HB 2635 - WORK</u>		

SESSION		
009	Cara Filsinger	Committee Administrator, explains -1 amendments to HB 2635 (EXHIBIT A); clarifies it is employees of language broker who are exempt from unemployment insurance and not the broker. Says Employment Department must be in compliance with federal regulations.
017	Rep. Sunseri	MOTION: Moves to ADOPT HB 2635-1 amendments dated 03/12/97.
	Chair Harper	Hearing no objection, declares the motion CARRIED.
019	Rep. Sunseri	MOTION: Moves HB 2635 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-1 AYE: 5 - Beck, Fahey, Markham, Sunseri, Harper NAY: 1 - Gardner EXCUSED: 1 - Minnis
	Chair Harper	The motion Carries. REP. SUNSERI will lead discussion on the floor.
028	Chair Harper	Closes work session on HB 2635. Opens work session on HB 2028.
<u>HB 2028 - WORK SESSION</u>		
030	Cara Filsinger	Committee Administrator, explains -1 amendments to HB 2028 (EXHIBIT B).
049	Rep. Beck	MOTION: Moves to ADOPT HB 2028-1 amendments dated 03/27/97.
	Chair Harper	Hearing no objection, declares the motion CARRIED.
054	Rep. Beck	MOTION: Moves HB 2028 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
		AYE: In a roll call vote, all members present vote Aye
		EXCUSED: 1 - Minnis
	Chair Harper	The motion CARRIES. REP. HARPER will lead discussion on the floor.
063	Chair Harper	Closes work session on HB 2028. Opens public hearing on HB 2808.

**HB 2808 -
PUBLIC
HEARING**

075	Cara Filsinger	Committee Administrator, explains HB 2808 adds certain cancer conditions to definitions under workers' compensation law to qualify them as occupational diseases, and therefore, be compensable. Explains -1 amendments (EXHIBIT C).
088	Roger Martin	Washington County Professional Firefighter's Association (EXHIBIT D) Urges committee to support HB 2808.
109	Jim Mooney	President, Firefighters Local 1660 Explains cancer is a unique worker's compensation issue. Says firefighters contract colon cancer at four times the national average. Describes changes in safety gear and cleaning turnouts. Presents anecdotal history of firefighter's death due to cancer. Says there is ample proof that occupational exposure to toxic materials may lead to cancer.
194	Rep. Sunseri	Asks if, in illustration, medical evidence showed proof that cancer was work related.
198	Mooney	Answers no; only in instances of unusual cancers are chemicals directly related. Says concern is steady exposure to toxic chemicals over time; a pattern of exposure over time causes diseases to occur.
218	Rep. Sunseri	Asks how many fires an average fireman attends in one year.
221	Mooney	Answers he attends 200 to 300 fires annually.
232	Rep. Sunseri	Asks how a worker would demonstrate working conditions contributed to prostate cancer.
238	Mooney	Refers to section of the bill which addresses cancers shown to be related to fire fighting.
261	Rep. Beck	Asks if issue has come before legislature in previous sessions.
263	Mooney	Answers affirmatively; he testified before House Labor Committee last session.
265	Rep. Beck	Asks if this bill has come to legislature for past twenty years.
267	Mooney	Answers no; says issue has been around for a long time, but is not aware of committee hearing the issue prior to 1995.
277	Rep. Beck	Asks if worker contracting cancer would be compensable if disease appeared many years following worker's change of occupations to a different industry.
290	Mooney	Answers proof would be required.
304	Chair Harper	Asks if burden of proof prevents cases from receiving compensation.
309	Mooney	Replies industry is looking for recognition of cancer as occupational disease for purpose of worker's compensation.

349	Rep. Fahey	Asks how many shifts Mr. Mooney works.
354	Mooney	Replies he works 24 hours with two days off.
356	Rep. Fahey	Asks where clothes and equipment are cleaned.
357	Mooney	Replies turnouts are washed separately from other gear.
385	Rep. Fahey	Confirms fire stations do not test for asbestos while putting out fires.
388	Mooney	Agrees; age of building may alert firefighters to possible asbestos hazard. Asbestos on clothing is carried back to station after a fire.
405	Rep. Fahey	Comments asbestos claims from shipbuilders have proven wife doing laundry may contract asbestosis. Asks number of firefighters who smoke.
420	Mooney	Says smoking is not allowed in facilities today; not many smokers in fire service.
TAPE 49, A		
021	Chair Harper	Asks who is included in the bill with respect to defining political divisions.
023	Martin	Presumes people who work for either a fire district or municipal fire system. Says he will provide committee with political subdivisions.
051	Pat West	Oregon State Firefighters Council (EXHIBIT E) Says many other states have presumptive cancer clauses for firefighters in state legislation; urges support of HB 2808.
088	Sen. Randy Leonard	Oregon State Senator, District 9 Says HB 2808 without amended language to mirror SB 304 and SB 305 does not represent Portland firefighters. Says investigation of suspected work-related cancers has resulted in approved claims. Describes difficulty of process to prove cause. Says HB 2808 with amendment would recognize firefighters have higher incidence of cancer than general population. Describes proposed amendment (EXHIBIT C).
165	Chair Harper	Asks for brief explanation why Portland firefighters and police are excluded from certain state laws.
170	Sen. Leonard	Explains legislature in 1950s exempted Portland from state benefit plans.
206	Chair Harper	Asks about worker's compensation.
207	Sen. Leonard	Explains Portland maintains system equivalent to state program.
210	Chair Harper	Asks if amendments to HB 2808 allow Portland firefighters to rejoin state worker's compensation program.
210	Sen. Leonard	Answers no; amendments recognize City of Portland employees so they will receive same workers' compensation benefits from statute.
227	Chair Harper	Asks confirmation that members not under current worker's compensation remain ineligible for benefits.

229	Sen. Leonard	Affirms only Portland system is affected.
232	Rep. Markham	Asks confirmation that Portland teachers have similar situation.
233	Sen. Leonard	Replies affirmatively; teachers entered Public Employes Retirement System (PERS) in 1969.
243	Rep. Markham	Confirms that Portland firefighters have not been bonded to buy into PERS.
244	Sen. Markham	Agrees; says a current bill in legislature would allow firefighters to ask Portland voters for funding.
251	Rep. Minnis	Asks what City of Portland does to reduce exposure of firefighters to carcinogens.
254	Sen. Leonard	Replies City of Portland provides self-contained breathing apparatus as required by OSHA. Says studies show carcinogens leach through turnouts into the body; improvements in cleaning methods are necessary.
299	Rep. Markham	Asks if volunteer firefighters are included in HB 2808.
303	Sen. Leonard	Assumes anyone who qualifies for workers' compensation is included.
310	Rep. Minnis	Asks if law suits have been filed against City of Portland for failing to take appropriate action to mitigate damages with respect to carcinogenic exposure.
315	Sen. Leonard	Replies no; more threats of litigation come from exposure to viruses.
352	Rep. Minnis	Claims relating clause could include police officers. Says municipalities and state government have not recognized significant exposure of police and firefighters to carcinogens.
388	Sen. Leonard	Says eleven-member board represents balance of interest; claims have been approved as job related.
424	Brian Delashmutt	Oregon Council of Police Associations Supports HB 2808.
TAPE 48, B		
026	Rep. Markham	Asks what statute requires hospitals and doctors to reveal exposure to AIDS virus.
030	Delashmutt	Replies he will provide the committee with information related to the question. Says concern is balancing right to confidentiality with worker's right to information of exposure to disease.
035	Rep. Minnis	Comments confidentiality laws prevent police dispatchers from revealing knowledge of individuals with HIV to uniformed officers.
048	David	Deputy City Attorney, Portland (EXHIBIT F) Defends workers' compensation claims. Opposes HB 2808; no credible

	Jorling	medical evidence to support presumption that firefighters suffer from lung cancer more than general population.
140	Rep. Minnis	Asks if he considers reports submitted in written testimony to be comprehensive review of current medical literature with respect to cancer in firefighters.
143	Jorling	Replies affirmatively; refers to Harvard report on cancer prevention (EXHIBIT F, pp 18-22).
152	Rep. Minnis	Asks length of Harvard report; requests copies for committee of complete report.
157	Jorling	Responds he will provide committee with Harvard cancer report.
159	Rep. Minnis	Asks if he knows average life expectancy of adult males in US.
161	Jorling	Replies he cannot provide that information; suggests committee read Appendix 3 of written testimony (EXHIBIT F, pp 16-17).
165	Rep. Minnis	Clarifies question asking for average life expectancy of American male.
167	Jorling	Replies current insurance tables give 78 years of age.
169	Rep Minnis	Asserts average life expectancy for firefighter or police officer is 55 to 57 years of age. Restates municipalities and governments fail to recognize environmental factors that contribute to occupational disabilities.
190	Jorling	Disputes Sen. Leonard's previous testimony; says City of Portland supports professional cleaning of firefighter's turnouts.
212	Rep. Minnis	Reiterates lack of recognition of significant effect of exposure to carcinogenic materials.
243	Chair Harper	Points out proponents outweigh opponents on this medical evidence.
245	Jorling	Asks committee to base decisions on quality rather than length of testimony.
252	Rep. Sunseri	Asks if evidence supports firefighter's claims that occupational exposure causes cancer.
256	Jorling	Replies there is evidence, but questions validity in court.
274	Rep. Minnis	Asks if attorneys representing RJ Reynolds' might make similar claims with respect to cigarette smoking.
277	Jorling	Answers affirmatively.
281	Chris Davie	SAIF Corporation (EXHIBIT G) Opposes HB 2808. Says cancer is compensable condition under existing occupational disease law. Explains HB 2808 changes burden of proof from requiring worker to prove claim to employer or insurer to prove by clear and convincing evidence that work exposure did not cause condition.
403	Davie	Estimates premium cost will more than double if bill passes.

TAPE 49, B		
017	Chair Harper	Asks why Management Labor Advisory Council (MLAC) remains neutral on this issue.
018	Davie	Replies he is unaware that MLAC has discussed the bill.
022	Chair Harper	Asks confirmation that ten claims from cancer deaths would double premiums; refers to previous testimony that average cost in Oklahoma was \$10,000.
024	Davie	Responds he has not seen Oklahoma statute; unable to comment. Reiterates just ten cancer claims would double claim cost and premium in Oregon.
029	Chair Harper	Asks if he knows cost of the one successful claim mentioned in previous testimony.
030	Davie	Answers no.
031	Chair Harper	Requests he provide committee with answer to the question.
032	Jorling	Responds he worked on the case in question; says claim exceeded \$500,000.
035	Rep. Beck	Asks Mr. Davie to describe process with respect to length and cost of claim when dispute arises over compensability.
042	Davie	Explains workers' compensation claim process.
052	Rep. Beck	Asks if passage of HB 2808 would create litigious situations resulting in exorbitant costs to state.
061	Jorling	Answers these are highly litigated cases. Suggests presumption should be conclusive to save taxpayers the burden of funding litigation.
072	Rep. Fahey	Says costs weigh loss of life versus loss of property.
088	Davie	Says cancer is covered.
093	Rep. Fahey	Asks why he objects to the bill.
094	Davie	Answers bill creates special class of one occupation and one condition and near impossibility of defeating the presumption that claim is compensable.
098	Rep. Fahey	Comments firefighters and police do not have environmental protections like other occupations.
106	Rep. Minnis	Presents anecdotal evidence to support Rep. Fahey's scenario. Asks if SAIF provides literature to employers with respect to workplace safety and exposure to carcinogens.
120	Davie	Answers SAIF provides safety literature to employers.
122	Rep. Minnis	Requests literature be provided to committee.
123	Davie	Responds information will be provided; reiterates information is extensive.

124	Rep. Minnis	Says if literature provides warning of dangers of exposure to carcinogens in workplace, SAIF recognizes compensability; burden should fall on entities. Recommends private right of action in lieu of bill to provide families right to sue insurance companies and governments for failure to take action allowing preponderance of evidence standard to prevail.
168	Alec Jensen	Executive Officer, Tualatin Valley Fire and Rescue Supports HB 2808. States quantifiable evidence to link specific forms of cancer to fire fighting. Disputes testimony of Mr. Davie, citing line 18 declares burden of proof remains with worker.
233	Brad Witt	Oregon AFL-CIO Expresses support for HB 2808; says with or without legislation claims would be litigated.
285	Chair Harper	Requests information from Mr. Davie with respect to impact on worker's compensation rates.
293	Rep. Sunseri	Requests medical evidence that supports firefighter's position.
297	Chair Harper	Closes public hearing on HB 2808. Opens public hearing on HB 2892.
<u>HB 2892 - PUBLIC HEARING</u>		
305	Chair Harper	Submits written testimony of Rep. Chuck Carpenter, sponsor of HB 2892 (EXHIBIT H) .
318	Michelle Kennedy	Manager, Fiscal, Performance and Planning, Oregon Employment Department (EXHIBIT I) States Department is neutral on HB 2892. Explains impact on Unemployment Insurance Trust Fund. Calls attention to three points: * self-correcting aspects of tax schedules * solvency of Trust Fund * technical aspects of administering rate reduction in HB 2892
<u>TAPE 50, A</u>		
003	Kennedy	Says Trust Fund should maintain balance of \$1 billion to be solvent.
031	Kennedy	States fluctuations in economy are difficult to predict; solvent Unemployment Insurance Trust Fund protects workers, businesses, and local economies from effects of recession and negative effects of increasing taxes and benefit reduction. Expresses concern that two different rates would require employers to file two tax reports for the same quarter, impacting Employment Department with an estimated \$250,000 in administrative costs. Recommends amendment language reflecting

		effective date beginning of calendar year. Refers to policy paper (EXHIBIT I, pp 6-15) provides information on calculating solvency.
057	Chair Harper	Asks Unemployment Insurance Fund balance today.
058	Kennedy	Answers \$1.1 billion.
060	Chair Harper	Asks confirmation that tax schedule changes annually.
060	Kennedy	Replies affirmatively, by calendar year.
063	Chair Harper	Asks when determination is made for upcoming calendar year.
064	Kennedy	Replies in August prior to the next year.
069	Chair Harper	Asks confirmation that system automatically reduces rates at point of adequate reserves.
072	Kennedy	Affirms automatic self-correcting system; however, HB 2892 takes a reduction when Department would not take a reduction.
077	Rep. Sunseri	Asks purpose of the bill if system already self corrects.
081	Kennedy	Answers intent was to provide tax relief to employers.
086	Betsy Earls	Associated Oregon Industries (AOI) Opposes HB 2892. Appreciates intent HB 2892, but reduction in trust fund would eventually activate higher tax rates for employers.
095	Rep. Beck	Asks if she has addressed concerns with Rep. Carpenter.
097	Earls	Replies AOI has not; understands Employment Department has spoken with Rep. Carpenter.
099	Chair Harper	Asks Ms. Kennedy regarding consolidation of several bills addressing similar issues currently before the Legislature.
105	Kennedy	Responds one of two workforce training bills will divert from Unemployment Insurance Trust Fund; HB 3449 attempts to equalize how taxes are assessed, causing high-cost employers in the system to pay higher taxes--low-cost employers to pay lower taxes.
124	Kennedy	Says Employment Department will work with Labor Committee to accomplish comprehensive policy.
128	Chair Harper	Asks if Rep. Carpenter fully understands current system.
130	Kennedy	Responds Department explained self-correcting aspect of tax system with Rep. Carpenter.
134	Chair Harper	Closes public hearing on HB 2892. Adjourns meeting at 9:05 a.m.

Submitted By, Reviewed By,

Linda Spaulding, Cara Filsinger,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2635, proposed amendments, staff, 1 p

B - HB 2028, proposed amendments, staff, 1 p

C - HB 2808, proposed amendments, Sen. Randy Leonard, 6 pp

D - HB 2808, written testimony, Roger Martin, 3 pp

E - HB 2808, written testimony, Pat West, 1 p

F - HB 2808, written testimony, David Jorling, 22 pp

G - HB 2808, written testimony, Chris Davie, 2 pp

H - HB 2892, written testimony of Rep. Chuck Carpenter, staff, 1 p

I - HB 2892, written testimony, Michelle Kennedy, 15 pp