

**CONFERENCE COMMITTEE ON SB 143**

**July 3, 1997 Hearing Room A**

**06:30 PM Tape 1**

**MEMBERS PRESENT: Sen. Neil Bryant, Chair**

**Sen. Kate Brown**

**Sen. Gene Derfler**

**Rep. Dan Gardner**

**Rep. Steve Harper**

**Rep. Bill Markham**

**MEMBER EXCUSED:**

**STAFF PRESENT: Brian Krieg, Committee Administrator**

**Cara Filsinger, Committee Administrator**

**Julie Havel, Administrative Support**

**MEASURE HEARD:**

**SB 143 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 1, A</b>		
003	Chair Bryant	Calls meeting to order at 7:10 p.m., opens work session on SB 143.
<b><u>SB 143 - WORK SESSION</u></b>		
010	Brian Krieg	Committee Administrator, re-caps provisions of SB 143 and explains intent of proposed -C9 amendments ( <b>EXHIBIT A</b> ).
030	Chair Bryant	Asks for clarification from Sen. Derfler that the intent is to try to be accommodating to employees who choose to take a few hours off work to attend a school function for their children, or some other commitment. States by either working the five-8's or the four-10's, they are limiting the employer's ability to accommodate that schedule.

036	Sen. Derfler	Verifies that is an accurate portrayal, and states he believes this is a real employee benefit. Explains position.
040		Discussion held on issue of employee overtime and flexibility.
055	Sen. Brown	Uses hypothetical example of her assistant leaving an hour early to pick up her car, and wants to make the time up on Saturday, even though no one will be here on Saturday. Asks if she, as the employer, is required to pay overtime for that hour.
061	Chair Bryant	States if the employee's normal time period was five days in a seven day week, and she didn't normally work on Saturdays, but agreed to make up the hour on Saturday, the House amendment language states that she would have to be paid overtime.
067	Krieg	States he had a discussion from Paul Tiffany from the Bureau of Labor and Industries (BOLI) about this situation. Explains the employee can only work one schedule or the other, either four days on the 10-hour schedule, or five days on the 8-hour schedule, and therefore could not take one hour off and make it up on Saturday unless the employer paid overtime for that hour.
079	Chair Bryant	States that was why the Senate did not concur with the House amendments. Asks if the part regarding work for services was added by Legislative Counsel for clarity.
086	Krieg	Defers question to Cara Filsinger.
089	Cara Filsinger	Committee Administrator, defers question to Rich Peppers.
092	Rich Peppers	Oregon Public Employees Union (OPEU), refers to language on page two, line 30. Explains it is to allow some flexibility for negotiations to take place in the environment of contractors bidding on contracts. States they wanted to make sure public service contractors could have the same flexibility as public improvement contractors have.
116	Peppers	States the issue of the work schedule must be looked at in the context of current law, which states there is a straight eight hour standard with the one exception of employees at the Oregon Economic Development Department (OEDD), who may work four 10 hour days. States for everyone else, current law requires an eight hour day as the standard.
141	Peppers	Continues explaining they modeled this proposed amendment to SB 143 after a similar one in SB 234, that allows for either a five-8 or a four-10 schedule. Urges committee to assure employees that if they move away from the five 8-hour day standard, they will have some protections, such as a guaranteed schedule of four 10-hour days.
151	Chair Bryant	States the reason they went to the stricter standard of four-10's or five-8's in SB 234 is because in the construction business, it would not be common to ever have a worker come back on a Saturday for one hour to make up for time taken off.
161	Peppers	States a similar situation occurs in the janitorial business, and explains part-time work there is the norm rather than full-time work. Gives details.

174	Sen. Brown	States it appears to her that with this language, a worker would be covered if he took an hour off, as long as he made up the time within that same four or five day schedule. States she believes it is better written and gives the flexibility with protections.
186	Rep. Harper	Asks Dan Kennedy how he intends to use this flexibility.
187	Dan Kennedy	Department of Administrative Services (DAS), explains they defer to the committee on this part of the bill. States it is desirable, but is not a necessity for them.
191	Rep. Harper	Asks for verification that it would be useful to have that flexibility.
194	Kennedy	States that is his understanding and defers to Pat O'Sullivan for verification.
196	Patricia O'Sullivan	DAS, states they are not talking about public employees, they are talking about private employees on contract with the employer, so DAS does not apply it, the employer applies it to the contract as a requirement. States BOLI enforces those statutes, and DAS would have to make sure all the contracts included those requirements.
213	Chair Bryant	Asks what effect she thinks it would have on competition to include the service contracts.
218	O'Sullivan	States she agrees with Mr. Peppers that it is their right to bargain for overtime in the contract, and they need to figure out how to include that in the bid. States there would have to be a lot of give and take, but she does not see that as a problem.
221	Chair Bryant	Asks if they could say "for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is a seven day period." States that way, the employee could work two hours on a Saturday or Sunday and would only receive overtime if it exceeded the 40 hours a week limit. Asks if that would still allow flexibility for both the employer and employee.
241	Rep. Gardner	Asks if that would still allow an employer to have an "un-set schedule" so if the employee takes off a couple of hours, he or she could come back in and work a couple of hours. States he does not see where that would disallow that in this language.
252	Chair Bryant	States he does not think it would be disallowed.
254	Rep. Harper	Asks to see the SB 234 language for comparison purposes.
263	Peppers	Explains differences between language in bills.
280	Rep. Harper	Asks for and receives verification that the bottom line is to allow employees to work weekends without paying them time-and-a-half, and allow them that flexibility.
284		Discussion continues on issue of whether language provides enough flexibility for both employers and employees.
		States she is concerned with the language not allowing for a "family-

301	Sen. Brown	oriented environment" by rewarding them for working on weekends. States she recalls this mainly applied to low wage earners.
312		Discussion held on issue of family time, low wages, and whether these families have other options.
336	Chair Bryant	States he will support leaving in the part that states "or for services," restoring the old language on lines 24 and 25, and deleting lines one through five on page two that will give the greater flexibility to the employee.
353	Sen. Bryant	<b>MOTION: Moves to ADOPT SB 143C-9 amendments dated 7/3/97 and that the measure be FURTHER AMENDED on page 2, line 30, by restoring "or for services" before "if the contractor".</b>
		<b>VOTE: 5-1</b>  <b>AYE: 5 - Sen. Bryant, Sen. Brown, Sen. Derfler, Rep. Harper, Rep. Markham</b>  <b>NAY: 1 - Rep. Gardner</b>
	Chair Bryant	<b>The motion Carries.</b>
365	Sen. Bryant	<b>MOTION: Moves SB 143 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2</b>  <b>AYE: 4 - Sen. Bryant, Sen. Derfler, Rep. Harper, Rep. Markham</b>  <b>NAY: 2 - Sen. Brown, Rep. Gardner</b>
	Chair Bryant	<b>The motion Carries.</b>  <b>SEN. DERFLER will lead discussion on Senate floor.</b>  <b>REP. HARPER will lead discussion on House floor.</b>
380	Chair Bryant	Closes work session on SB 143, adjourns meeting at 7:40 pm.

Submitted By, Reviewed By,

Julie Havel, Cara Filsinger,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - SB 143, proposed -C9 amendments, staff, 1 p.**