

HOUSE COMMITTEE ON
LABOR

Hearing Room
Tapes -15

MEMBERS PRESENT:

Rep. John Watt, Chair
Rep. Lee Beyer, Vice-Chair
Rep. Kate Brown
Rep. Chuck Carpenter
Rep. Mike Fahey
Rep. Lynn Lundquist
Rep. Lynn Snodgrass

MEMBER EXCUSED:

STAFF PRESENT:

Aaron Felton, Committee Counsel
Paula Gilmer Purcell, Committee Assistant

MEASURES HEARD:

HB 2060 - Relating to unemployment eligibility
HB 2175 - Relating to re-employment assistance reserve
HB 2189 - Relating to comparability of value of work
HB 2190 - Relating to performance appraisals and personnel records
HB 2193 - Relating to management being restored to former

position after being removed from position

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , A

02 CHAIR WATT: Calls meeting to order at 1:32pm.

Work Session on House Bill 2060

09 MOTION: REP. SNODGRASS: Moves to ADOPT HB 2060.

10 CHAIR WATT: We entertain a motion to move HB 2060 to the Floor with a DO
PASS recommendation.

VOTE: 7-0 MOTION PASSES
AYE: Beyer, Brown, Carpenter, Fahey, Lundquist, Snodgrass, Watt
NO: None

21 CHAIR WATT: Who would like to carry our first bill out of committee?
Rep. Snodgrass thank you very much.

Opens Public Hearing on House Bill 2175

Witnesses: Lynnae Ruttledge, Assistant Administrator, Vocational
Rehabilitation Division
Susan Jordan, Manager, Benefits Section, Workers Compensation Division
Eugene Organ, Executive Director of the Oregon Disabilities Commission

51 LYNNAE RUTTLEDGE, ASSISTANT ADMINISTRATOR VOCATIONAL REHABILITATION
DIVISION, Submits written testimony [EXHIBIT A] in support of House Bill
2175.

62 We have been leveraging resources to be able to assist injured workers to
become employed.

86 We look at critical factors that are causing injured workers to apply to
Vocational Rehabilitation Services. We have done this together.

91 We urge you to support this bill.

99 SUSAN JORDAN, BENEFITS SECTION MANAGER, WORKERS COMPENSATION DIVISION:
Submits written testimony [EXHIBIT B] in support of House Bill 2175. At
this time written testimony [EXHIBIT C] is presented by Virlena Crosley,
Administrator of the Workers Compensation Division.

103 We ask that you continue to fund this program.

109 The Re-employment Assistance Reserve assists employers in hiring
disabled workers who are no longer able to return to their former type of
work.

122 The fund was set legislatively. It is figured by cents per hour or by

day.

127 There is a large balance in the fund.

132 REP. FAHEY: Why would we not want the program even if we did not get the federal funds?

137 RUTTLEDGE: We are trying to leverage available resources.

142 FAHEY: Could we not continue the program even if we did not get the federal funds?

151 CHAIR WATT: How much is in the fund?

151 JORDAN: \$102 million.

155 CHAIR WATT: I thought they were going to stop the funding of this program for a while?

157 JORDAN: That is correct.

163 REP. BEYER: Is the money requested an adequate amount?

167 RUTTLEDGE: We feel that it is.

170 CHAIR WATT: Lynnae could you please explain how vocation rehabilitation works and the federal ties?

175 RUTTLEDGE: Explains the Vocational Rehabilitation Division and what they do.

214 REP. FAHEY: How much money is in the fund?

216 JORDAN: On September 30, 1994, there was a \$102 million.

222 We are spending as much as we are taking in. But, the interest and earning has caused the fund to grow.

228 CHAIR WATT: The department will come in and explain the fund in more detail at a later date.

238 REP. FAHEY: If this money was diverted to some other place, where would that be?

239 JORDAN: There are five different reserves in my division. Most would go to the Retro Active Reserve.

280 EUGENE ORGAN, EXECUTIVE DIRECTOR OF THE OREGON DISABILITIES COMMISSION, Submits written testimony [EXHIBIT D] in support of House Bill 2175.

287 Many people who have exhausted workers compensation call my office wanting a way to get back to work. We refer these people to this program.

Closes Public Hearing on House Bill 2175

Opens Public Hearing on House Bill 2189

Witnesses: Jim McIntosh, Department of Administrative Services
Mari Anne Gest, Political Director Oregon Public Employees Union
Ken Allen, American Federation of State County and Municipal Employees

324 JIM MCINTOSH, DEPARTMENT OF ADMINISTRATIVE SERVICES: Submits written testimony [EXHIBIT E] in support of House Bill 2189.

335 This bill adds an additional factor which requires arbitrators to consider comparable worth in making a decision when we have gone to binding arbitration.

362 We have ended up with jobs of relative value but at different pay scales.

382 REP. FAHEY: Give me an example of where you have had trouble?

384 MCINTOSH: We had a binding arbitration decision that gave a salary increase to one group and we had a contract settlement that gave another group with similar positions no increases in salary.

413 REP. FAHEY: Are those like jobs? How do you figure them?

423 MCINTOSH: Yes. We also have a system that assess the relative value of work between different kinds of occupations, and it places a value on similar positions.

465 MARI ANNE GEST, POLITICAL DIRECTOR OREGON PUBLIC EMPLOYEES UNION: Submits written testimony [EXHIBIT F] against House Bill 2189.

461 The Employment Relations Board has a rule that states, fact finders must consider whatever the factors are in the law.

Tape 15, Side A

39 We believe that House Bill 2189 puts the focus in the wrong place. We

should be looking at the market to establish pay rates.

70 REP. BROWN: Because the method used to analyze data is not consistent or sound, do you feel this will impact workers negatively?

76 GEST: That could happen. We do not have the ability to bargain over those points.

85 REP. BROWN: Has using comparable worth worked? Are woman being brought up in terms of pay scale on a state employee level?

92 KEN ALLEN, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES: The gender based classifications have been brought up to the market rate.

99 REP. LUNDQUIST: You say you would not oppose this bill if you had the bargaining position. Would you comment on if you really want that bargaining position? Would you like to see your wages established under these guidelines?

106 ALLEN: We think the public wants us to look at market factors.

115 GEST: The arbitrator can consider these factors.

120 REP. FAHEY: Are you saying you are being faced with a standard that is being applied to the members you represent without having any impute on the standards?

124 GEST: Yes, that is correct.

125 ALLEN: I do not think this bill will correct the problem.

136 CHAIR WATT: On a one to five scale, are you happy with the current policy structure?

149 ALLEN: We have no major complaints about the pay and compensation system in this state.

151 CHAIR WATT: Do you understand they way the system is set up?

155 GEST: I will soon.

156 ALLEN: Yes.

159 CHAIR WATT: I ask because most of the people in this building do not understand the pay and compensation system in this state.

176 REP. BEYER: I do understand. I am bothered by the system. I am not sure I agree that we need to change the statute. I do feel that comparable worth should be considered.

218 GEST: I said they can and do consider the Hay point system and comparable worth.

235 The problem is the methodology and the point system.

237 REP. BEYER: I would like to see some demonstration that this problem does exist more than in just theory.

Closes Public Hearing on HB 2189

Opens Public Hearing on HB 2190

Witnesses: Karen Roach, Administrator of Human Resource Management
Division, Department of Administrative Services
Gail Ryder, Oregon News Papers
Jeb Bladine, Publisher, News-Register, Chairman, Oregon News Paper
Association

260 KAREN ROACH, ADMINISTRATOR OF THE HUMAN RESOURCE MANAGEMENT DIVISION, DEPARTMENT OF ADMINISTRATIVE SERVICES: Submits written testimony [EXHIBIT G] in favor of House Bill 2190.

301 The Attorney General says that the public has a interest in how public employees are performing.

320 We should hold the agencies and the managers accountable, not the individual workers.

353 We urge passage of House Bill 2190.

354 REP. BEYER: Where is the guarantee that the employee would still have access to the information in their file?

359 ROACH: It is in the administrative rules.

364 REP. BEYER: Is there any statutory protection?
365 ROACH: Yes.

366 REP. BEYER: Which statute is that in?

367 ROACH: ORS 192.410 through ORS 192.505.

379 REP. BEYER: I want to make sure this will not ever be used to keep employees from ever seeing their files.

380 ROACH: We also guarantee it through our administrative rules. It

states they have a right to look at their files and see what it holds.

392 REP. BEYER: Administrative rules are not the same authority as a statute.

398 ROACH: I guess I do not know the statute well enough.

413 REP. FAHEY: They can't see recommendations from former employers?

420 ROACH: That is right out of the statute.

434 CHAIR WATT: Give me some instances where you need disclosure.

442 ROACH: A person wanted to see the appraisals for all managers from Children Services Division.

464 GEST: We support this bill.

491 GAIL RYDER, OREGON NEWSPAPERS, Submits written testimony [EXHIBIT H] against HB 2190.

497 JEB BLADINE, PUBLISHER OF THE NEWS-REGISTER: Speaks against House Bill 2190 giving testimony from [EXHIBIT H].

Tape 14, Side B

58 Currently, appraisals are not confidential.

74 They show how well the evaluations are done.

84 In one case we were first refused disclosure, then through the courts we were allowed to see the appraisal.

101 JOSEPH BENNINGHOFF, CONFEDERATION OF OREGON SCHOOL ADMINISTRATORS: Testifies in support of House Bill 2190.

104 I represent both those who evaluate and who are evaluated.

111 Evaluation is to improve performance of the employee.

117 There is almost always something in the evaluation to leave room for improvement, no matter how good the employee is. This could be seen in a negative manner.

128 I urge consideration of the bill.

130 CHAIR WATT: As in the McMinnville situation, don't you think it is a parents right to know what that person's appraisal is?

153 BENNINGTON: As far as the district was concerned, knowledge of the individual evaluation forms, did not contribute to resolving the immediate problem.

158 CHAIR WATT: I think the good appraisal in this situation brings up a big concern.

161 BENNINGTON: The responsibility comes back to the Superintendent and the School Board in how the appraisal was done.

170 REP. BROWN: Expand on the negative impact on employee morale.

175 BENNINGTON: Yes, it can affect morale.

192 REP. FAHEY: Is there a section in the bill that would allow for records to be supeanead?

197 BENNINGTON: Any employer would have to respond to a court order.

200 REP. CARPENTER: Don't you think by having the records out in the open causes the evaluator to be more open minded if they have to justify them to other employees?

215 BENNINGTON: It puts a tremendous demand on the evaluators time.

220 REP. BEYER: What do you think would be the outcome of making these public?

224 BENNINGTON: They are available to the public now. The purpose is compromised if the evaluators have to also write them for the public. The response of the employee can be tailored for the public.

226 REP. BEYER: Right now, few people know that most records are open to them. What effect would that have on how complete the evaluations would be?

253 BENNINGTON: If I was the child of a first grader, I would want to look at the evaluations and ask that my child be put with the best rated teacher.

258 REP. CARPENTER: What would you do if you were the principal evaluating the teachers?

259 BENNINGTON: I might try to average them out so I would not be faced with that situation.

263 REP. FAHEY: Is there a standard form for evaluations?

269 BENNINGTON: For licensed teachers there is a state form. There is not a form for non-licensed people. Each district creates their own form.

266 REP. FAHEY: Would it not be fair to the employee to have a ranking on the form?

275 BENNINGTON: The form is not designed for ranking.

301 CHAIR WATT: Rep. Fahey, you are right what is the purpose of all of this.

306 REP. LUNDQUIST: It puzzles me that you average the evaluation. I would not like it if my evaluation was not very good.

318 BENNINGTON: People do talk to each other about their evaluations.

327 REP. FAHEY: Is it possible to have a good teacher, but they do not have good social graces? Could this cause some sort of problem with their evaluation?

333 BENNINGTON: It ought not to but, yes it could be a factor. Many people cannot interview well.

Closes Public Hearing on House Bill 2190

Opens Public Hearing on House Bill 2193

Witnesses: Karen Roach, Department of Administrative Services
Ken Allen, AFSCME
Morella Larsen, Real Estate Commissioner

360 ROACH: Submits written testimony [EXHIBIT I] in favor of House Bill 2193.

379 The law was changed in 1987. The intent was to give the state more flexibility in putting these people into positions.

406 The Employment Relations Board upheld an arbitrators decision, and that destroyed the intent of the legislature.

430 ROACH: Continues reading testimony.

460 It could have a negative impact on the quality and morale of state management.

470 We urge passage of the bill.

473 REP. BROWN: What does terminated for other than cause mean?

478 ROACH: It is not the employees fault that there is a layoff.

491 REP. BROWN: Could someone in management bump a non-management employee in another agency?

499 ROACH: That is possible.

Tape 15, Side B

53 FAHEY: If someone works in a department for two years and was promoted into management for twenty years, can they go back to that department with twenty-two years seniority and bump everybody left?

58 ROACH: Generally speaking, if they are going back into the bargaining unit they must follow the rules in the collective bargaining agreement on how service credits are calculated.

93 REP. LUNDQUIST: Has what we have said during the campaign about downsizing government caused you to bring this to us?

103 ROACH: We want to keep the most qualified people in government.

106 REP. SNODGRASS: If a manger gets bumped and they met the criteria, would they carry the old salary down with them?

119 ROACH: Not a simple answer. Their salary is frozen if the work they will be doing is similar to what they did in management service. If the work is different, they would take on the salary for the new position.

130 REP. SNODGRASS: What is the percentage of difference required in the position?

131 ROACH: Generally it is substantial. Fifty-one percent of the duties must be different.

138 SNODGRASS: Are your job descriptions so specific that it is easy to identify that?

146 ROACH: Position descriptions should be that discreet.

152 ALLEN: We are opposed to the change. We are not against management bumping down back into the bargaining unit. They should then have to use the same procedures the rest of the bargaining unit members have to use in a lay off situations.

176 This legislation is a end run-around bargaining.

184 MORELLA LARSEN, REAL ESTATE COMMISSIONER: Submits testimony [EXHIBIT J]
in favor of House Bill 2193.

207 Continues to speak referring to [EXHIBIT J].

233 When the manager got the position, the other two applicants filed a grievance.

275 [EXHIBIT J] provides a timeline of what has taken place with this situation.

294 REP. BROWN: The three employees, two were not managers?

299 LARSEN: One was a manger, two were classified employees from the agency.

307 REP. BROWN: The non-managerial employees, were they hired at a lower pay scale than the managerial employee?

312 LARSEN: It was a promotion for them, a demotion for the manager.

318 FAHEY: How many employees are in your department?

321 LARSEN: Thirty-two.

322 REP. FAHEY: Do you know what the financial impact of this bill would be if people in management were bumping back down into management?

328 LARSEN: In our case he took a hit in salary.

341 ROACH: If the manger's position is being classified downward to classified service, they would keep their salary. If the position is being abolished and they are being restored back to the bargain unit, they would take a demotion in pay.

351 REP. FAHEY: Does each department handle their own labor relations?
355 LARSEN: We work it in whenever we can.

Closes Public Hearing on House Bill 2193

Submitted by, Reviewed by,

Paula Gilmer Purcell Aaron Felton
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on House Bill 2175, presented by Lynnae Rutledge
B - Final report on VRD Services to Oregon's injured workers, presented by Susan Jordan
C - Testimony on House Bill 2175, presented by Virlena Crosley
D - Testimony on House Bill 2175, presented by Eugene Organ
E - Testimony on House Bill 2189, presented by Jim McIntosh
F - Testimony on House Bill 2189, presented by Mari Anne Gest
G - Testimony on House Bill 2190, presented by Karen Roach
H - Testimony on House Bill 2190, presented by Jeb Bladine
I - Testimony on House Bill 2193, presented by Karen Roach
J- Testimony on House Bill 2193, presented by Morella Larsen