

HOUSE COMMITTEE ON
LABOR

February 6, 1995 Hearing Room
Tapes - 19

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:

Overview of Worker's Compensation in Oregon
House Bill 2237 - Relating to Construction Contractors

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 , SIDE A

02 CHAIR WATT: Opens Hearing at 1:30pm.

Worker's Compensation Overview

Witnesses: Virlena Crosley, Administrator of the Workers Compensation
Division
 Larry Young, Deputy Administrator of the Workers Compensation
Division
 Susan Jordan, Manager of the Benefits Section of the Workers
Compensation Division
 Tom Mattis, Manager of the Compliance Section of the Workers
Compensation Division
 Mari Miller, Manger of the Dispute Resolution Section of the Workers
Compensation Division
 Bob Karau, Manager of the Operations Section of the Workers
Compensation Division

04 VIRLENA CROSLY, ADMINISTRATOR WORKERS COMPENSATION DIVISION: Submits
written testimony [EXHIBIT A], begins discussion of the division.

30 Continues a discussion on the Workers Compensation Division.

42 CHAIR WATT: As far as the no fault system, there was a ruling handed down by the supreme court on Friday, that puts that in jeopardy.

49 CROSLLEY: We are currently reading the order. If you put in a claim that you consider a work place related injury, there is exclusive remedy through the workers compensation system. If the injury is not compensable, the employee could sue their employer.

77 Refers to the organizational chart in [EXHIBIT A], page 16.

89 CHAIR WATT: Could you please explain the difference in the divisions.

91 CROSLLEY: Explains the different divisions.

123 In [EXHIBIT A] there is a breakdown of each division within Workers Compensation.

132 Refers to pages nine and ten of [EXHIBIT A].

146 CHAIR WATT: The four point five assessment comes from who? And how does it get to you?

150 CROSLLEY: Can I let Larry Young describe this in one minute.

154 The four point five assessment rate is four point five percent of the premium rate that the insurers pay.

190 LARRY YOUNG, DEPUTY ADMINISTRATOR, WORKERS COMPENSATION: Speaks from written testimony [EXHIBIT A].

195 We have several sources of funding.

208 Four point five percent of the premiums is an assessment that goes to our division.

221 We re-imburse SAIF Corporation for processing the non-compliance claims.

259 CHAIR WATT: Why do the self employer groups pay an additional point percent of premium?

263 YOUNG: They are new, and we are trying to build up a reserve.

271 CHAIR WATT: I'm sorry, that did not make a lot of sense.

255 YOUNG: Please let me re-state it then. He explains the point two percent.

283 CHAIR WATT: Why do you need the extra? I do not understand?

287 YOUNG: Self-insured employers are a group of employers that have banned together for workers compensation coverage.

298 CHAIR WATT: They are charged more till they reach what level?

301 YOUNG: Probably to the same level that is in the Self Insurers Fund.

307 REP. LUNDQUIST: What determines when the fund is large enough?

314 YOUNG: I will have to get that information for you.

341 REP. LUNDQUIST: Do you use a formula or something?

352 TOM MATTIS, COMPLIANCE SECTION, WORKERS COMPENSATION DIVISION: There is no formula. The surety bonds filed with the Director have been more than enough to deal with companies that have defaulted.

368 REP. BEYER: Are the reserves projected on a actuarial basis?

376 MATTIS: I believe they are.

378 CROSLEY: They look at the economy and the divisions policies. They will then pick a mid-point from the last eight quarters.

391 REP. BEYER: So you do us an actuary?

393 CROSLEY: Yes.

395 CHAIR WATT: If I want to be self insured, I must carry reserves to cover my insurance needs? Is there a set amount? What is it based on?

408 MATTIS: Statutory requirements must be met.

412 CHAIR WATT: Where does that reserve go?

413 MATTIS: They are put on deposit with the Director.

422 CHAIR WATT: So, you monitor that pretty carefully?

423 MATTIS: Every year we conduct a claims audit.

434 CHAIR WATT: That is in addition to what I have reserved? I do not see why we need the self adjustment reserve. I would like to see more specifics in this area. I have a hard time seeing why we have to reserve this. I will be questioning a lot of this.

485 YOUNG: Gives examples of why they need the extra reserve.

TAPE 17, SIDE A

48 CHAIR WATT: What about the reserve I have already paid to the Director?

51 YOUNG: Explains why they must keep all of this money in reserve.

64 CROSLEY: The four point five percent goes into the fund, and the Director has the discretion to put more or less money into these other reserves. Once the money goes into those reserves they cannot be used for any thing else.

72 CHAIR WATT: And that is just recent, correct?

72 CROSLEY: That is correct.

75 REP. FAHEY: Why do people become self-insured? Is there a rating standard?

81 YOUNG: They feel they can control their costs better, and provide their employees better services.

92 REP. FAHEY: Are they saving more than the two percent they put in to the reserve?

94 YOUNG: There is the potential to do that.

97 Continues testimony using [EXHIBIT A] discussing the cents per hour charge. Employee and Employer matches that amount and report it to the department of revenue.

148 The reserve also pays for rehabilitation services.

152 Very little of the cents per hour goes into the reserves.

166 CHAIR WATT: How did the other reserves come about? What are the ORS sites for the reserves?

170 YOUNG: Give the ORS that enacts each of the reserves.

186 REP. FAHEY: If there is no claim where does the money go to?

188 YOUNG: The statute says that it goes to the Re-employment Assistance Reserve.

194 REP. FAHEY: Is that three point four cents duplicated in the four point five under the rehab reserve?

198 YOUNG: It is a match, there is no duplication at all.

209 REP. FAHEY: Is that in your handout?

210 No, it should be noted under DCBS operations.

215 SUSAN JORDAN, MANAGER BENEFITS SECTION, WORKERS COMPENSATION DIVISION:
Gives overview of her testimony from [EXHIBIT A].

255 We have a staff of ten benefit specialists.

270 REP. BEYER: Is this the unit where the worker's ombudsman is located?

271 JORDAN: No, it is not.

274 Continues with overview of her division.

293 The Re-employment Assistance Unit has fourteen staff members

313 We now have a program where the worker can go back to work while they are still injured.

334 Support services unit provides support to the whole section

338 CHAIR WATT: What has brought the rates down?

328 JORDAN: Education of insurers and employers in the workplace.

353 CHAIR WATT: How many personnel did you have in 1991?

354 JORDAN: Ten.

355 CHAIR WATT: You then only need five now.

357 JORDAN: Since then the workloads have been re-assigned.

375 The work comes from other areas where there has been cutbacks.

410 MATTIS: Begins his discussion on page twenty three of [EXHIBIT A] to give an over view of his section.

462 We try to collect the money from non-complying companies that have injured employers.

TAPE 16, SIDE B

42 Continues discussion of the Compliance Section.

50 We are crossing training staff to do phone investigations.

67 We also conduct a training audit. We go over the performance and explain what can be changed. We will not find them at that time.

102 We certify works compensation claims examiners.

120 We will asses fines and penalties.

131 REP. FAHEY: Do you have statistics on what employers you have the most trouble with?

130 MATTIS: Over all compliance is high

154 REP. FAHEY: I really wanted to know if you had more trouble with established companies or new companies?

156 MATTIS: We do not have them classified that way.

164 MARI MILLER, MANAGER OF THE DISPUTE RESOLUTION SECTION OF THE WORKERS COMPENSATION DIVISION: Begins her overview from [EXHIBIT A].

187 Please look at the charts on page thirty-two of [EXHIBIT A].

213 Page thirty-one of [EXHIBIT A] lists case samples.

254 In the medical area, the providers will ask for our intervention.

268 Most of our cases are not appealed.

272 BOB KARAU, MANAGER OF THE OPERATIONS SECTION OF THE WORKERS COMPENSATION DIVISION: Gives testimony from [EXHIBIT A].

298 We respond to phone questions concerning who is covered.

318 We also prepare forms.

352 CROSLY: If there are any other questions, please let us know.

363 REP. FAHEY: How do you figure the workers compensation rate on the leasing companies?

374 MATTIS: Could not really answer the question. I cannot speak to rates with any authority.

Closes Overview of the Workers Compensation Division

Opens Public Hearing on House Bill 2237

Witnesses: Rep. Luke, Member of the Task Force on Public Contracting
Fred Van Natta, Oregon State Home Builders Association
Gary Stewart, Supervisor of the Non-Complying Employers Section of Workers Compensation
Tom Kelly, Construction Contractors Board
John Grund

413 REPRESENTATIVE DENNIS LUKE, MEMBER OF THE INTERIM TASK FORCE ON PUBLIC CONTRACTING: Submits written testimony [EXHIBIT B].

446 The bill defines who is a independent contractor.

487 There is a penalty section to the bill.

TAPE 17, SIDE B

37 Two exempt contractors can work on the same job at the same time.

59 If the bill does not pass, it will force businesses to become corporations when all they wanted to do was be a partnership.

74 REP. FAHEY: Will this cause some people to go out of business?

80 REP. LUKE: People will always try to beat the system.

119 REP. BEYER: I want to thank Representative Luke for all of his work on this bill.

126 CHAIR WATT This has been before this body for a long time and Rep. Luke

was willing to take this on.

132 REP. LUKE: Many people including the industry have worked very hard to work on this bill.

143 FRED VAN NATTA, OREGON STATE HOME BUILDERS ASSOCIATION: Give written testimony [EXHIBIT C] in favor of House Bill 2237.

148 Mr. Van Natta puts on a overhead from [EXHIBIT C] on the screen for the committee to look at. It shows a flow of general contractors to subcontractors.

166 When you have an employer employee relationship the IRS is very interested. So is the Department of Revenue and Workers Compensation. And so must be the construction contractors board.

187 Who is a contractor and who is an employee? It is part of the common law.

201 Shows IRS Form [EXHIBIT C] used for determination.

227 The board had a ruling on how many independent contractors can work on one site at one time.

274 This bill will state how many independent contractors can work on a site at one time.

280 REP. LUNDQUIST: Define for me, "the same task at the same job".

281 VAN NATTA: A person siding a house, till they get high enough to need help holding the siding up. Or two finish carpenters who are doing different tasks.

313 REP. LUKE: Wouldn't there have to be some monetary exchange?

319 VAN NATTA: The penalty would be that you would be covered under workers compensation or when they are being paid.

339 We say that two independent contractors should be the correct number.

377 Is there a level playing field within the construction industry?

414 Goes over each section of the bill and explains the definitions.

458 Partners in the construction business must carry workers compensation. This bill will change that.

497 The penalties are set in subsection four.

Tape 18, Side A

61 The penalties are severe for having too many sub-contractors on the job at one time.

88 REP. LUKE: We need to clarify that all people registered with the Independent Contractors Board are independent contractors. Some of us do have workers compensation insurance.

103 GARY STEWART, SUPERVISOR OF THE NON-COMPLYING EMPLOYERS UNIT OF THE WORKERS COMPENSATION DIVISION: Submits written testimony [EXHIBIT D] stating concerns about House Bill 2237 relating to the compliance of contractors with the workers compensation requirements.

144 The current law forces the construction industry to govern themselves.

152 We urge that the current law be retained.

173 REP. SNODGRASS: How long does it take to find if someone is in compliance?

180 STEWART: There are a couple of ways to check on workers compensation.

198 REP. LUKE: How many inspectors do you have that go into the field?

191 STEWART: We have eight investigators in the field and four that work on the telephone.

205 REP. LUKE: How many inspections do you do in a year? When was the last time they were east of the mountains?

209 STEWART: We will go east of the mountains any time there is a claim.

217 REP. LUKE: The department did not go out in the last few years and make a lot of no claim checks, is that true?

218 STEWART: There were about six hundred done, either job site investigations or over the phone investigations.

234 We want to thank Rep. Luke for including us in this process.

240 JOHN GRUND: Gives testimony in favor of House Bill 2237.

248 Goes over the history of the situation that has created a need for this bill.

308 Contractors find their own work. They pay all their own social security.

350 Continues with testimony.

381 I disagree with just two on a job site, The law should say three people, for safety reasons.

460 TOM KELLY, CONSTRUCTION CONTRACTORS BOARD: Submits written testimony [EXHIBIT E] against House Bill 2237.

TAPE 19, SIDE A

42 Consumers will impacted negatively by this bill.

46 Expanding the workers compensation requirement is the way to go. This is not a good bill for Oregon.

60 I do agree with some of the provisions of this bill.

62 CHAIR WATT: People have been involved in this for a long time.

Closes Hearing on House Bill 2237

77 CHAIR WATT: Adjourns hearing.

Submitted by, Reviewed by,

Paula Gilmer Purcell Aaron Felton
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A- Overview of Workers Compensation in Oregon, submitted by Virlena
Crosley

B - Testimony on House Bill 2237, submitted by Representative Dennis Luke

C - Testimony on House Bill 2237, submitted by Fred Van Natta

D - Testimony on House Bill 2237, submitted by Gary Stewart

E - Testimony on House Bill 2237, submitted by Tom Kelly