

HOUSE COMMITTEE ON  
LABOR

Hearing Room  
Tapes - 47

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

STAFF PRESENT:

Aaron Felton, Committee Counsel  
Paula Gilmer Purcell, Committee Assistant

MEASURES HEARD:                   Informational Hearing on Senate Bill 369

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: Brings meeting to order at 1:34 pm.

Informational Meeting on Senate Bill 369

Witnesses:           Representative Kevin Mannix  
                          Jerry Keene

12           REPRESENTATIVE KEVIN MANNIX, SPONSOR OF SENATE BILL 369: Continues with a summary of the bill. Begins with section twenty-four, claim disposition process.

50           Continues with section twenty-five, the medical services statute.

67           This section discusses what is compensable. Is it on the list.

72           CHAIR WATT: So you removed old B and put in subsection C.

89           Curative care, this is very novel.

106          You may chose an attending Doctor. outside of the United States.

128 This will put more people into the Managed Care Organizations.

139 If medical services are required then the employer must pay for it even if the claim is denied.

156 REP. BEYER: Material Contribution, can you explain that for us?

159 REP. MANNIX: Explains the term material contribution.

173 -Case law says material is significant.

179 REP. LUNDQUIST: Consequential, is it a harder standard?

180 REP. MANNIX: Yes.

212 REP. FAHEY: Seems like this language is trying to back attorneys out of the situation.

218 REP. MANNIX: Yes.

226 REP. BROWN: What is the purpose of making them go to the Managed care program so soon.

237 REP. MANNIX: Most people will need the care right away. Most care is done by the time the claim is accepted.

250 REP. BEYER: On curative care and the director's decision, could you expand on that.

260 REP. MANNIX: This would by pass the board by empowering the Director. His decision is subject to the court.

261 REP. MANNIX: Continues with section twenty-six. It will make the fee schedule apply.

336 -Continues with section twenty-seven.

380 -Continues with discussion of the whole review process.

389 REP. FAHEY: Under managed care wouldn't be more cost effective if your personal physical who knows you better be more cost effective?

406 REP. MANNIX: In 1990, they had similar language.

433 -Continues with section twenty-eight. Temporary disability.

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42 REP. MANNIX: Continues with section twenty-eight.

69 -Continues with sub-section 6(a).

111 -Consequential condition.

166 If not changed many employers will go ahead and litigate a lot more claims.

182 Cooperation agreement on page thirty three of the bill.

201 REP. BEYER: On page thirty one, why is the burden of proof on the worker?

215 REP. MANNIX: The employer has the burden.

228 CHAIR WATT: Then the burden of evidence is on the worker if there has been fraud.

239 REP. MANNIX: The worker's burden is lower.

264 -Continues to explain burden of proof, and when each is responsible.

293 REP. BEYER: If the Insurer says you are frauding and denies the claim, then the proof is on the worker?

305 REP. MANNIX: That is correct.

311 REP. BROWN: Why is the burden of showing cooperation on the worker?

319 REP. MANNIX: First you have a notice of non-cooperation.

331 CHAIR WATT: What would constitute non-cooperation?

333 REP. MANNIX: Gives examples.

341 REP. BROWN: Does the investigator have to state why there is non-cooperation.

350 REP. MANNIX: It must be in the rules.

356 REP. FAHEY: Is that reciprocal?

364 REP. MANNIX: Gives an explanation.

370 REP. FAHEY: Is a statement from the Doctor enough to have a worker off work?

384 REP. MANNIX: Gives an explanation.

449 REP. FAHEY: So basically you are going to accept what the Doctor says?

460 REP. MANNIX: You would think the Doctor would be somewhat diligent.

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50 -Continues with section twenty-nine.

60 -Continues with section thirty.

87 The time frame for reconsideration has been changed.

112 Will not be able to bring things up at hearing that were not brought up with the department first.

130 REP. FAHEY: Was there a court case on disability?

135 REP. MANNIX: Smith v. Safeway.

170 CHAIR WATT: Lets shift over to the summary [EXHIBIT A].

197 REP. MANNIX: Continues through section thirty-three.  
204 -Continues with section thirty-four.  
219 -Continues with section thirty-five.  
247 -Continues with section thirty-six.  
259 -Continues with section thirty-seven  
286 REP. BROWN: The staff measure summary in section thirty-seven says that  
it over turns court interpretation regarding SB 1197, can you give me a  
couple of the court cases.  
293 REP. MANNIX: Responds.  
311 There could be a problem in the staff measure summary that was prepared  
by the Senate Labor Committee.  
323 REP. BROWN: You still want them to apply?  
329 REP. MANNIX: Yes.  
331 JERRY KEENE: There is some small language changes with amendments that  
will be proposed.  
354 REP. MANNIX: Continues with section thirty eight  
359 -Continues with section thirty-nine.  
377 REP. FAHEY: If someone got death benefits, could that be considered  
overpayment?  
388 REP. MANNIX: No.  
394 -Continues with section forty  
403 -Continues with section forty-one.  
414 -Continues with section forty-two.  
452 -Vocational rehabilitation provisions.  
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48 -Continues with section forty-two.  
52 -Continues with section forty-three.  
60 -Continues with section forty-four.  
65 REP. FAHEY: On section forty three, who is going to pay if there is a  
denial?  
69 REP. MANNIX: The employee.  
72 -Continues with section forty-five.

85 REP. BEYER: Has a question on legal definitions, substantial evidence.

91 REP. MANNIX: Explains.

114 REP. BROWN: Initiated without reasonable prospect of prevailing, I have problems with this.

120 REP. MANNIX: Unreasonable is addressed in the statute.

136 -Continues with section forty six, and forty-seven.

143 -Continues with section forty-eight.

153 -Continues with section forty-nine.

174 REP. WATT: Is it the responsibility of the insurance company to pay the claim?

179 REP. MANNIX: Yes, and then they are re-embursed by the re-employment reserve program.

193 -Continues with sections fifty, fifty-one and fifty-four.

224 -Continues with section fifty-five and fifty-six.

244 -Continues with sections fifty-seven, occupational disease.

255 -Continues with sections fifty-eight and fifty-nine.

262 FAHEY: How would section fifty-seven effect something like aSB estosis?

271 REP. MANNIX: Responds.

331 REP. BROWN: This takes away from the courts the fact that this is to be a remedial statute in favor of the worker. And, it changes the standards from later to earlier. Why not make this a two year statute of limitations like most claims?

345 KEENE: This are intended to be more flexible.

374 REP. FAHEY: Once you find out you have a year to tell them right?

412 REP. SNODGRASS: I have two scenarios I would like to ask questions about.

465 REP. MANNIX: Responds to the scenarios.

TAPE 47, SIDE A

52 REP. BROWN: Would the net effect of this bill increase or decrease the .

And would it cause the numbers of worker's covered or who have access to benefits? Do you anticipate an increase of litigation as a result of new changes? And, does the bill do anything to promote work place safety or prevent injuries?

60 CHAIR WATT: Adjourns meeting at 3:30pm.

Submitted by,      Reviewed by,

Paula Gilmer Purcell  
Committee Assistant

Aaron Felton  
Committee Counsel

EXHIBIT SUMMARY:

A - Summary of Senate Bill 369, submitted by committee