

HOUSE COMMITTEE ON
LABOR

Hearing Room
Tapes - 50

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: Public 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

07 CHAIR WATT: Brings the hearing to order at 1:32pm.

Opens Public Hearing on Senate Bill 369

Witnesses: Verlena Crosely
 Susie Jordan
 Larry Young
 Mari Miller
 Tom Mattis
 Ross Dwenill
 Chris Davie
 Lana Butterfield
 Kathy Olsen

20 VERLENA CROSLY, ADMINISTRATOR OF THE WORKERS COMPENSATION DIVISION:
Testifies with written testimony [EXHIBIT A] on Senate Bill 369.

48 The Division has spent countless hours analyzing the bill.

69 Part of our Department Bills that were folded into in this bill.

95 We have not done a section by section analysis of the bill.

113 The Governor is currently working on amendments to the bill.

119 We want to change the exclusive remedy section of this bill.

131 REP. BEYER: On the Arnet case, if the insurers said that this was not a workers compensation related injury that they can take tort action. Does the bill change this?

141 CROSLEY: No it does not, explains. You must see if the injury is compensable or not. This section of the bill fixes this.

157 REP. BEYER: If someone was injured and the insurer says it is not a work related injury then there may be a gap of insurance coverage?

167 CROSLEY: Often times it delays the timeliness of coverage.

177 SUSIE JORDAN, BENEFITS SECTIONS MANAGER: I am not sure if it is a gap or not. Or is it the interpretation of the insurance company. However, it has been reported to us by injured workers.

203 REP. BEYER: How do we remedy this?

208 CHAIR WATT: I suggest you wait till Liberty North West comes in to testify.

212 LARRY YOUNG, ASSISTANT ADMINISTRATOR OF WORKERS COMPENSATION DIVISION: Gives an explanation that the health provider will pick it up and be paid back by the insurer.

236 CROSLEY: Continues with the discussion of the bill.

267 REP. BEYER: If you are a injured worker and your Doctor says you need this treatment and it is disputed, what happens?

277 MARI MILLER, MANAGER OF THE DISPUTE RESOLUTION SECTION OF THE WORKERS COMPENSATION DIVISION: The statute says that the treatment the worker is receiving may be disputed and brought to the Director. The courts interpreted that it could be discretionary. So some would come to the Director and some to the Board. This section of the bill clears up this confusion.

129 CHAIR WATT: Will the Directors decision be final?

132 MILLER: No, it can be overturned.

133 CHAIR WATT: By whom?

135 MILLER: That is yet to be determined.

370 CHAIR WATT: Can you give us an average of the time you would save?

374 MILLER: Every case is different. The initial decision would be sooner and the hearing before our officers would be sooner. I could get back to you with more information.

399 CHAIR WATT: If this change were to take place that these items that have been identified, the decision would be suggested by a medical person or persons that the Director would ultimately make the decision on as opposed to adjudicators at the board?

402 MILLER: The Mahonia Hall group wanted to do this to make the time lines sooner.

421 CROSLEY: Continues going over the bill.

440 CHAIR WATT: Will not all of these changes make the statute and language clearer. Will you will let us know if the changes do not do that?

445 CROSLEY: Yes, I will do that.

-Continues with her discussion of the bill.

TAPE 49, SIDE A

44 CHAIR WATT: Do you think it is safe to say that the intent of the language was that you were able to get paid for temporary total disability longer than two years, and this clears it up?

59 YOUNG: Currently we use the term conclusive. And have said that it was a cumulative two year period.

71 JORDAN: An example is someone who is on total temporary disability for a few months and then is released to modified work, then they receive total permanent disability. If they need surgery they will be put back on temporary total disability and it is added on to the two years, aggregated.

On the rolling theory it would begin again.

91 CROSLEY: Continues with discussion of the bill.

117 Money needs to be re-routed to the retro reserve, which is badly under funded.

133 REP. BEYER: Would that bill solve the problem?

135 CROSLEY: I have not seen the bill yet.

150 CHAIR WATT: This helps the Widows benefits from 1987, correct?

152 CROSLEY: Yes.

159 -Continues with fee schedules.

207 CHAIR WATT: The debate on the Senate floor was that this would take the seventy percent away, is that true?

215 CROSLEY: It depends on how the fee schedule is set.

-Continues with the fee schedule.

255 -We want this information to be proprietary.

277 CHAIR WATT: Do you feel this language is clear?

278 CROSLY: As long as the proprietary language is cleaned up.

287 CHAIR WATT: What kind of formula will you use to evaluate them?

294 YOUNG: Gives an example off how they will do it.

337 CROSLY: Continues with discussion, starting with section three.

356 CHAIR WATT: What is the language that gives you cause to believe that it could happen?

361 YOUNG: Page thirty-five, line ten.

370 CHAIR WATT: This is where the Doctor could note this on the chart?

376 CROSLY: Yes.

379 REP. FAHEY: What has been the problem in the past?

386 CROSLY: Rep. Mannix said there are currently disputes that the worker says they have not received it and we believe this would increase the disputes.

399 CHAIR WATT: If the Doctor continued to do this and document is in writing, this should solve the problem.

407 REP. BEYER: Is there a standard form for a release?

409 CROSLY: No there is not.

419 JORDAN: There are forms but they do not have to use them.

434 CHAIR WATT: Why don't you change your rules to require the use of a form?

438 CROSELY: We could.

457 REP. BEYER: Could that eliminate potential litigation?

463 JORDAN: The Doctors do not always follow the rules.

TAPE 48, SIDE B

43 CROSLY: Continues with waxing and waning.

57 REP. BEYER: What is the alternative?

59 CROSLY: The current language would be fine. Just delete sub-section six. We do not think the language adds that much.

84 REP. LUNDQUIST: The concept was to note that waxing and waning happens. We did talk about taking the language out of the sentence.

100 CHAIR WATT: Did we not talk about moving that to section thirty-one?

103 CROSLY: Continues with discussion on page twenty-three, section

twenty-five, line thirteen.

127 REP. BROWN: One of the changes in 1990 was that you could not let a worker go to an MCO till the claim was accepted?

135 TOM MATTIS, MANGER OF THE COMPLIANCE SECTION OF THE WORKERS COMPENSATION DIVISION: The practice would be that the insurer would be unlikely to interrupt that care if it is going to adversely effect worker's of their own interests.

140 REP. FAHEY: What if they changed MCOs?

150 MATTIS: That could happen right now under the law.

173 CHAIR WATT: Is that not the purpose of an MCO that you have enough people to anticipate all kinds of these thing?

180 MATTIS: That is correct.

189 CROSLEY: Continues with testimony. Refers to letter from the Department of Justice [EXHIBIT A].

217 CHAIR WATT: So, if this passes the Division will have to step up the regulation of MCO's.

219 CROSELY: Yes, that is correct. Continues with testimony.

236 REP. BROWN: What are the current issues and administrative practices that would be cleared up with regards to this piece?

241 MILLER: This does not come up that often. We do not perceive a problem in this area.

270 REP. BROWN: Expound when you say this has not been an issue?

278 CROSELY: Gives a more detailed explanation.

290 REP. FAHEY: Would this add more costs?

300 CROSLEY: Responds.

314 CHAIR WATT: Lets go through the last of this.

318 CROSLEY: Continues with testimony.

360 -Continues with testimony.

411 -Continues with testimony.

448 We have four more bill that we would like to have included in Senate Bill 369.

460 REP. BEYER: Were most amendments in the Senate adopted?

TAPE 49, SIDE

40 CROSLEY: Yes, there were about a hundred and ten of our amendments in

the new bill.

53 ROSS DWENILL, CHAIRMAN OREGON SELF-INSURERS ASSOCIATION POLICY COMMITTEE:

Testifies in favor of Senate Bill 369 from written testimony [EXHIBIT B].

69 Will submit amendments at a later date.

88 Under this bill our injured workers would end up getting twenty-four hour coverage.

99 REP. BROWN: If you have an injury and your employer has a MCO and the employee does not have to go to the MCO till they are medical stationary?

106 DWENILL: That is correct, it also allows for a selection, all services are paid for.

117 REP. BROWN: What if the worker has a relationship with a particular Doctor., and now they do not have that option.

122 DWENILL: They do have that option.

127 REP. BEYER: If a work goes to their own Doctor till the claim has been determined, and they can still continue to go after the claim has been accepted.

138 DWENILL: That is correct.

145 CHRIS DAVIE, STATE ACCIDENT AND INSURANCE FUND CORPORATION: Testifies on Senate Bill 369.

146 CHAIR WATT: do you know where that opt out section is?

153 DAVIE: Page twenty-six, line forty-four.

156 Gives some background on what happens when an insurance company gets a claim.

165 The state has the three options for coverage of workers compensation.

193 When an employer gets a policy they have several options.

220 Workers Compensation insurance has no limits on it.

253 Speaks about the need for Senate Bill 369 from the perspective of SAIF.

272 The changes that occurred in 1990 were very healthy.

316 The cost of insurance is a key factor of business moving to Oregon.

351 -Continues with testimony.

384 REP. BEYER: What was the issue in the Safeway case?

386 DAVIE: Responds.

401 REP. BEYER: About a worsening of his condition?

403 DAVIE: I cannot remember exactly.

414 -Continues with testimony about the increase of certain benefits.

429 Feels that the discussion that arose on the he Senate floor arose from misunderstanding of the bill.

454 Predispositive, this term seems to have been misunderstood.

TAPE 50, SIDE A

52 -Continues with testimony.

63 REP. FAHEY: Is it not true if your primary care provider sends you to a specialist you cannot go back to the original Doctor.

70 DAVIE: The Doctor would only have to follow the rules of the MCO.

90 REP. BEYER: What is that language on page three mean?

93 DAVIE: Explains.

102 REP. CARPENTER: In pre-existing conditions, in five years from now if they find you are predisposed to certain disease and your job could aggravate your condition or possible condition?

112 DAVIE: Responds.

120 Gives a statement about waxing and waning. Page eighteen, line six.

143 REP. SNODGRASS: Second sentence on page eighteen, do you have a problem with this language?

150 DAVIE: Responds. Does not have a problem with that language.

160 LANA BUTTERFIELD, OREGON PROFESSIONAL AGENTS AND SAFECO: Testifies in favor of Senate Bill 369.

173 KATHY OLSEN, CLAIMS BENEFITS SPECIALIST WITH SAFECO INSURANCE: Testifies in favor of Senate Bill 369.

Submitted by, Reviewed by,

Paula Gilmer Purcell	Aaron Felton
Committee Assistant	Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on Senate Bill 369, submitted by Verlana Crosley,
Administrator of the Division of Workers Compensation.

B - Testimony on Senate Bill 369, submitted by Ross Dwinell, OSIA

