

HOUSE COMMITTEE ON
LABOR

Hearing Room
Tapes - 64

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:

Work Session 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

05 CHAIR WATT: Opens hearing at 1:38 p.m.

Opens Work Session on Senate Bill 369

09 CHAIR WATT: Rep. Mannix will go over the dash twenty-four amendments
while we are waiting for some new amendments.

27 REPRESENTATIVE KEVIN MANNIX, SPONSOR OF SENATE BILL 369: I will go over
the amendments page by page.

77 Continues going over the dash twenty-four amendments.

89 On the definition of palliative care and what it does not included.

100 Preexisting condition language.

114 REP. BROWN: What is the net effect of these changes?

109 REP. MANNIX: Minimal other than to remove redundancy.

127 "Independent contractors" is still out of alphabetical sequence.

149 CHAIR WATT: We passed over some important stuff in the preamble of the
bill.

187 JERRY KEENE, ATTORNEY: I found the page five amendments to the
preamble. They are on page seven of the dash twenty-four amendments.

216 REP. MANNIX: Limited liability companies.

224 This is a section that was a separate house bill. The Workers
Compensation Department has asked that it be added to Senate Bill 369.

235 CHAIR WATT: I would like to talk about this bill since we have not
discussed it before.

242 REP. SNODGRASS: Could you define a circumstance of why this is needed?

245 REP. MANNIX: It means that the Director can bring legal action. After
the Director finds someone to be non-complying and an order has been
entered as such, and it has become final. Some people will continue to be
non-complying anyway.

268 KEENE: That is read in conjunction with the words "without complying",
it permanently enjoins the employer from employing workers without being in
compliance.

274 REP. SNODGRASS: So, if they intentionally do it to begin with and they
are found guilty, then accidentally forget four years later, what happens
then?

280 REP. MANNIX: You will get an order, and have a chance for a hearing on
the order. You can also appeal the order. Once the order becomes final,
most people understand the requirements of the law.

302 CHAIR WATT: This part of the statute is to get at the individual who is

intentionally non-complying in a effort to lower their day-to-day business costs.

314 REP. MANNIX: The penalty parts will come later in the amendments.
327 Continues with the section seven of the amendments.
335 Continues with page eleven of the amendments, disputed claims costs.
350 Provided some clarification language on what ought to be recoverable.
367 Page twelve of the amendments, assigned claims agent.
382 Page thirteen of the amendments, technical changes.
415 REP. MANNIX: Continues with discussion of the amendments.
426 Page eighteen, line eight, waxing and waning.
439 Page nineteen, it changes the scheduled permanent partial disability from \$390 to \$415.
456 Page nineteen, changes in the amount of awards.

TAPE 63 SIDE A

43 CHAIR WATT: Lets stop for a moment so we can pass out copies of the new hand engrossed version of the bill.
54 Continues to pass out the copies.
74 Continues discussing the amendments using the hand engrossed version of the bill that has just been passed out.
86 REP. BEYER: Is this what the final bill will look like?
88 AARON FELTON, COUNSEL FOR HOUSE LABOR COMMITTEE: Yes it is.
103 REP. MANNIX: I am now going off the a engrossed version of the bill. The alien issue has been removed from the bill.
112 Language has been changed from "restive" to "combined".
119 The section on prescription medications that are required to maintain the worker in a medically stationary condition has been taken out.
131 REP. BROWN: Why has that language been changed? Is it more broad?
133 REP. MANNIX: Yes, it is broader.
136 REP. MANNIX: Continues with the amendments.
158 KEENE: The department asked that we include these provisions through out the bill.
165 REP. SNODGRASS: On page twenty-two, line eighteen, please explain the difference between "a worker" and a "employed worker".
168 REP. MANNIX: The "worker" may not be employed.
191 Continues with page twenty-four. The administrative procedure act and what is the standard of review.
222 Page twenty-eight, lines five through seven, clarification of language concerning the contract.

392 KEENE: This changes the review of a Managed Care Organization dispute concerning care.
406 REP. MANNIX; Continues with discussion of the amendments in the engrossed version.

434 Further changes to the Administrative Procedures Act.
453 Page forty-four, changes to the term "Administrative Law Judge".

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44 CHAIR WATT: I do not see that anywhere.
45 KEENE: Let me explain where the Administrative Law Judge amendments are in the bill.
52 REP. BEYER: On page forty-four, lines fourteen through twenty-five, is that deleted?
54 REP. MANNIX: No, we are revising the bill to say the Director then shall request the Board to appoint an Administrative Law Judge to determine the responsible paying party.
60 Continues with clarification language.
66 Page forty-six still clarifies terminology.
71 CHAIR WATT: Give us time to look at the change concerning the arbitrators decision.

75 REP. MANNIX: Continues to clarify the changes on the arbitrators
decision.

78 Continues with page forty-six.

82 KEENE: The language has been deleted.

90 We are getting rid of "disclaimer of responsibility".

101 Lines forty and forty-one on page forty-seven, we have clarified
payments on reconsideration.

116 KEENE: I think we need a clarification on a request for a hearing, what
kind and what stage of the appeal is it at?

121 REP. MANNIX: Continues with page forty-one.

128 Clarification as to medical treatment.

132 CHAIR WATT: Please go back to page fifty-one.

157 KEENE: Discusses the review process.

159 REP. MANNIX: Continues with the amendments.

168 Clarification of attorney fees.

178 The correction should say "insurers" or "employers".

195 Page fifty-five, clarification.

201 Page sixty-one, Workers Compensation Board, when they want to remove a
referee. We have taken that language out and put the old language back in.

220 Page sixty-three, the wording has been moved to page sixty three.

231 CHAIR WATT: That should go back to the existing language.

235 REP. MANNIX: That is correct.

242 KEENE: Let me explain it in more detail.

254 CHAIR WATT: I have a question about the new sub H.

266 REP. MANNIX: Continues with page sixty-two of the amendments.

288 Continues with page sixty-four.

296 KEENE: This discusses the difference between "predisposition" and
"major contributing causes".

309 REP. BROWN: What cases have prompted this?

310 KEENE: States the cases in question.

315 REP. MANNIX: Continues with page sixty-five, occupational disease
claims.

330 Page sixty-six, line twenty-nine, this is a clarification.

383 On page seventy there are a number of changes, such as effective dates.

424 Continues with discussion of the amendments.

472 Limited liability companies.

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64 Continues with the addition of the house bills the Department has
requested.

75 Changing from "may asses" to "shall asses".

78 CHAIR WATT: Let me explain, as this is my amendment.

103 KEENE: Makes a statement on some of the inserts.

127 CHAIR WATT: We will take a short break. Please be back at 3:20 p.m.

133 CHAIR WATT: Reconvenes the hearing at 3:20 p.m.

136 Please look at the addition on page fifty-six. This was left out of
House Bill 2107 and it needs to be added.

155 FELTON: Explains some changes in the engrossed version of the bill that
were made during the break.

194 Continues with the changes.

204 CHRIS DAVIE, SAIF CORPORATION: Let me give an explanation of the change
that I have requested.

218 REP. MANNIX: I will explanation why section thirty-six is being deleted
and a new one is being added.

262 Continues with an explanation of the change.

268 CHAIR WATT: Gives a further explanation of what is needed to be changed with the new changes to the A engrossed version.

289 DAVIE: It belongs to page forty-three, those words should go in there.

320 MANNIX: It is the mailing requirement for a dispute.

328 FELTON: Page fifty-three, line thirteen, there was a typographical error.

346 CHAIR WATT: This has been very tedious and very confusing. This outlines the importance of the labor management committee. I hope that this committee can take up discussion, and the governor will make the committee work again. We are not going to solve the problems by passing one bill. Workers Compensation needs continuing attention by professionals. We hoped we would have a statement from the Governor's office but no one could come to talk about it. Lets go to the fiscal impact statement.

415 VERLENA CROSLY, ADMINISTRATOR OF THE WORKERS COMPENSATION DIVISION: It should be best coming from the Governor.

427 CHAIR WATT: Is there anything that you see as a problem that would be hard for you to administrate?

437 CROSLY: The fee schedules are still worrisome.

446 REP. MANNIX: I appreciate the work from the Department.

450 REP. BROWN: According to the letter from the Governor, there still seems to be some outstanding problems.

469 CHAIR WATT: Discussion on this should come from the Governor's office.

474 REP. MANNIX: The Governor has been very forth coming.

TAPE 64, SIDE A

66 MOTION: REP. BROWN: MOVES the dash fifteen amendments.

80 CHAIR WATT: Questions?

81 REP. BROWN: This was presented by Seiji Shiratori on behalf of the Oregon Association of Naturopathic Physicians. They believe they are essential providers of primary health care and they feel they should be included as an attending physicians. I think they were drafted on the A Engrossed version of the bill. I believe they can be conformed to the dash twenty-four amendments.

100 REP. MANNIX: The dash fifteen amendments are clean and do relate to the A Engrossed Bill and they can be presented as such.

103 CHAIR WATT: Discussion?

104 VOTE: 3-4 MOTION FAILS
AYE: Beyer, Brown, Fahey
NO: Carpenter, Lundquist, Snodgrass, Watt

108 MOTION: REP. LUNDQUIST: MOVES to adopt the dash A twenty-four amendments.

114 CHAIR WATT: Discussion?

115 REP. BEYER: I cannot vote for the bill today. I do not understand it all.

137 REP. BROWN: I have questions concerning the fiscal impact.

142 CROSLY: This is a preliminary draft. There are a number of revisions that will need to be done. Some of the language needs to come out.

160 REP. BROWN: This is based on the A engrossed version and not the version we will be voting on, correct?

164 CROSLY: It is based on the one you are voting on, but it is preliminary.

170 VOTE: 4-3 MOTION PASSES
AYE: Carpenter, Lundquist, Snodgrass, Watt
NO: Beyer, Brown, Fahey

Representatives Beyer and Brown serve notice of a possible minority report.

170 MOTION: REP. LUNDQUIST: MOVES Senate Bill 369 A as amended to the with a DO PASS recommendation.

186 VOTE: 4-3 MOTION PASSES
AYE: Carpenter, Lundquist, Snodgrass, Watt
NO: Beyer, Brown, Fahey

Representatives Beyer and Carpenter serve notice of a possible minority report.

194 CHAIR WATT: Committee stands adjourned at 4:10 p.m.

Submitted by, Reviewed by,

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| Paula Gilmer Purcell | Aaron Felton |
| Committee Assistant | Committee Counsel |

EXHIBITS:

A - Dash-24 amendments to Senate Bill 369.

B - Dash-15 amendments to Senate Bill 369.