

SENATE COMMITTEE ON
LABOR AND GOVERNMENT OPERATIONS

Hearing Room
Tapes - 22

MEMBERS PRESENT:

Sen. Gene Derfler, Chair
Sen. Brady Adams, Vice-Chair
Sen. Neil Bryant
Sen. Bob Kintigh
Sen. Bill McCoy
Sen. Randy Leonard

MEMBER EXCUSED:

STAFF PRESENT:

Rita Thomas, Committee Counsel
Amy Baker, Committee Assistant

MEASURES HEARD:

SB 369 - Public Hearing

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

006 CHAIR DERFLER: Opens meeting at 8:03 AM.

010 Opens PUBLIC HEARING on SB 369

015 KEVIN EARLS: AOI begins testimony on SB 369.[EXHIBIT A]

056 JERRY KEENE: Begins testimony.

100 JERRY KEENE: Outlines sections which are changing with the new proposed
legislation.

134 JERRY KEENE: References numerous court cases which are overturned with
the new legislation.

178 JERRY KEENE: Continues testimony referencing SB 369 and court cases

which are the intent of the 1991 legislation.

210 JERRY KEENE: Discusses specific provisions of the legislation.

217 SEN. BRYANT: Non-complying employers, is this in response to the Timm's case?

246 SEN. BRYANT: How will the system work to solve conflicts which currently arise by non-complying employers being issued large claims against them?

279 CHAIR DERFLER: Is there any case now in which the worker's claim is being held up while the courts try to decide who is liable to pay the claim?

327 SEN. LEONARD: Why isn't the Labor/Management Committee involved in the development of the legislation?

350 KEVIN EARLS: Consensus, was not reached within the committee, but I believe that the Governor was the appointee of the committee members.

399 CHAIR DERFLER: Details background on how he and Rep. Mannix, took over the development of the legislation on Workers' Compensation.

TAPE 20, A

020 SEN. LEONARD: Continues discussion regarding the development of the Workers' Compensation bill.

042 KEVIN EARLS: Speaks to the nature of the bills intent.

060 SEN. LEONARD: Does AOI support the repeal of ORS 656.226?

082 JERRY KEENE: Yes, this bill is not strictly housekeeping. AOI feels that 20% of this bill is groundbreaking legislation.

109 REP. UHERBELAU: What is the purpose of your testimony, is it for future court records or for information purposes?

120 JERRY KEENE: The purpose of my testimony is to clarify intent on the record for the courts regarding this Workers' Compensation legislation.

141 CHRIS DAVIE: Representing SAIF corporation. Begins testimony on the corporation's role and interest in this legislation.

180 CHRIS DAVIE: Continues testimony, including the history of SAIF and the Workers' Compensation legislation.

220 CHRIS DAVIE: Discusses the dividends and rate cuts which have occurred since the Workers' Compensation legislation of 1990.

245 CHRIS DAVIE: Elaborates on how Oregon has served as a model for other states with their Workers' Compensation legislation of 1990.

270 CHRIS DAVIE: Discusses SAIF support and involvement in the Governor's Labor/Management Committee.

320 CHRIS DAVIE: Details the concerns for the state, relating to the
Workers' Compensation laws.

335 CHRIS DAVIE: Points to specific issues within the proposed bill which
remedy the ambiguity of SB 1197.

380 CHRIS DAVIE: Continues with specific points within SB 369 which
"clean-up" SB 1197.

TAPE 19, B

010 CHRIS DAVIE: Answers questions from the committee.

037 CHRIS DAVIE: Refers to the Wisconsin's Labor/Management system.

051 SEN. BRADY: Do you have any information that the Governor(s) had looked
into the problems of the Labor/Management Committee?

071 SEN. BRADY: If this legislation is not passed, what is the effect on
the Workers' Compensation?

110 SEN. LEONARD: Discusses the balance that must be struck between both
sides of the Workers' Compensation.

135 FRED VAN NATTA: Representing Liberty Northwest.

150 TOM JOHNSON: Representing Liberty Northwest, addresses the specifics of
the proposed legislation which Liberty Northwest believes are reasonable
and important within the bill.[EXHIBIT B]

180 TOM JOHNSON: Continues testimony referencing [EXHIBIT B] page 1.

206 TOM JOHNSON: Details section 67 changes and gives examples of need for
this type of legislation through a specific case.

230 TOM JOHNSON: Discusses the exclusive remedy clause within the Workers'
Compensation bill.

245 TOM JOHNSON: References page 3 [EXHIBIT B].

269 TOM JOHNSON: Discusses new proposal relating to the continuous
explosive growth in administrative rules.

300 TOM JOHNSON: We in Oregon are heavily burdened by rules.

323 TOM JOHNSON: "We are down here today to testify in support of the bill."

360 SEN. LEONARD: References section 14, page 14, lines 1 through 8,
questioning the consistency between proposed changes made in SB 369 to the
original intent of SB 1197.

TAPE 20, B

027 MARK DAVISON: Representing the Oregon Self-Insurers Association.

060 BARBARA BRAINARD: Member of the legislative subcommittee of the Oregon
Self-Insurers Association. Begins testimony [EXHIBIT C]

085 BARBARA BRAINARD: Explains what additional language and clarification could be made within the proposed bill.

110 BARBARA BRAINARD: Continues testimony regarding the need and clarification for Workers' Compensation legislation.[EXHIBIT C]

135 BARBARA BRAINARD: Discusses de facto litigation.

170 BARBARA BRAINARD: Reaffirms support of SB 369.

210 SEN. LEONARD: Isn't the origin of Workers' Compensation laws based on favoring of the employee?

220 BARBARA BRAINARD: This is a no fault system. Putting everybody on an equal level.

277 RCA MOORE: Begins testimony against SB 369.[EXHIBIT E]

359 PETER PRESTON: Begins testimony against SB 369 [EXHIBIT F]

TAPE 21, A

020 PETER PRESTON: Continues testimony against SB 369.[EXHIBIT F]

066 PETER PRESTON: Details concerns to changes made by SB 369.

080 CHRISTOPHER D. MOORE: Representing the law firm of Malagon, Moore, Johnson and Jensen. Discusses problems he sees arising with the implementation of SB 369.[EXHIBIT D]

114 CHRISTOPHER D. MOORE: Continues testimony following [EXHIBIT D].

145 CHRISTOPHER D. MOORE: Discusses the need for both sides in a Worker's Compensation claim to be represented by legal counsel.

180 CHRISTOPHER D. MOORE: References page 10 of [EXHIBIT D].

220 CHRISTOPHER D. MOORE: Continues to discuss the problems with the section which changes the name and set up of the Worker's Compensation board of referees.

245 BRAD WITT: Representing AFL-CIO. Gives testimony following [EXHIBIT G].

300 BRAD WITT: Continues testimony against the SB 369 as currently drafted.

345 DIANE ROSENBAUM: Representing Oregon State Industrial Union Council. Begins testimony on SB 369 following [EXHIBIT H].

TAPE 22, A

010 DIANE ROSENBAUM: Continues testimony following [EXHIBIT H].

050 DIANE ROSENBAUM: Continues testimony, giving examples of specific cases.

080 DIANE ROSENBAUM: Refers to the "objective findings" provision of SB 369.

100 DIANE ROSENBAUM: Discusses changes which would occur with the pre-existing condition clause.

140 DIANE ROSENBAUM: Continues testimony describing the inconsistencies within the bill.

160 FRANK BIEHL: Representing the Association of Western Pulp and Paper Workers. Describes the extent to which the Labor/Management Committee has influenced legislation.

190 FRANK BIEHL: Clarifies the role of the Labor/Management Committee, on which he serves.

230 FRANK BIEHL: Discusses the issues looked at by the Labor/Management Committee.

285 SEN. LEONARD: Is it that the Labor/Management Committee just did not have enough time to develop an adequate package?

310 CHAIR DERFLER: The bill was drafted by trying to take in all concerns.

There was no choice but to begin drafting a bill apart from the Labor/Management Committee due to lack of decisiveness on their part.

350 DIANE ROSENBAUM: If you look at the language in the SB 369, you will find that it is not wholly consistent with the pursued changes to Workers' Compensation intended by the Labor/Management Committee.

378 Closes PUBLIC HEARING on SB 369

380 CHAIR DERFLER: Adjourns meeting.

Submitted by, Reviewed by,

Amy Baker Rita Thomas
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 369 - Kevin Earls - 2 pages
B - Testimony on SB 369 - Tom Johnson - 6 pages
C - Testimony on SB 369 - Barbara Brainard - 8 pages
D - Testimony on SB 369 - Christopher D. Moore - 13 pages
E - Testimony on SB 369 - RCA Moore - 2 pages
F - Testimony on SB 369 - Peter Preston - 9 pages
G - Testimony on SB 369 - Brad Witt - 6 pages
H - Testimony on SB 369 - Diane Rosenbaum - 3 pages