

SENATE COMMITTEE ON
LABOR AND GOVERNMENT OPERATIONS

Hearing Room
8:00 AM Tapes 23 - 25

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 23, A

004 CHAIR DERFLER: Calls meeting to order.

Opens PUBLIC HEARING on SB 369

007 KEITH KILBOURNE: Here to testify about the ORS 656.340 (6), the wage averaging section of the bill.

050 SEN. KINTIGH: How far back did the Workers' Compensation claim go in order determine the wage average?

080 BRIAN WHITEHEAD: Representing Erwin Farmen , an injured worker.

090 BRIAN WHITEHEAD: Here to testify about ORS 656.340 (6) to amend determination of eligibility for vocational rehabilitation services.

110 SEN. DERFLER: Should we assume that his injury was not a serious injury

if he didn't get any award?

151 BRIAN WHITEHEAD: Proposes that there must be amendments to bill because the current language encourages injured workers to stay idle so as to no lose Workers' Compensation benefits, while punishing those who cannot find a good job after the injury.

181 SEN. KINTIGH: Are you suggesting that the wage before injury is the one that should be used?

200 ED REDMAN: Risk Manager of WTD industries. Testifying in support of SB 369 but against the section of SB 369 which repeals ORS 656.226. [EXHIBIT A]

255 ED REDMAN: Continues testimony detailing situations in which cohabitants are not marrying in order to keep Workers' Compensation benefits.

305 SEN. BRYANT: Is it your testimony that the law should read that cohabitation mandates the loss of benefits for the surviving spouse or cohabitation with the production of a child ends the benefits of the surviving spouse.

338 CHAIR DERFLER: You don't object to death benefits being paid to the cohabitant of the deceased employee?

355 SEN. LEONARD: Do you understand that the statute prohibits the deceased's family from suing your company, which is the trade off for your company?

409 ED REDMAN: Continues to testify about the company's perspective on the surviving cohabitant, cohabiting with a new individual.

420 SEN. BRYANT: The trade off in the Workers' Compensation law is that the worker is paid regardless of whether the injury was caused through fault of the employer or the employee.

TAPE 24, A

032 ED REDMAN: Continues to describe why companies should not be liable for compensating those who were paid as a coinhabitant, now that they have reestablished their lives with a new coinhabitant.

045 SEN. LEONARD: Asks about his involvement in the Labor/Management Advisory Committee?

075 ED REDMAN: Discusses what he believes were the problems within and outside of the Labor/Management Advisory Committee.

095 SEN. ADAMS: What is your overall view of SB 369?

099 ED REDMAN: I am generally in favor of all parts of SB 369.

108 CHAIR DERFLER: Do you see SB 369 as bringing us back to what was accomplished by the Labor/Management Advisory Committee?

110 ED REDMAN: Yes, I think SB 369 is getting us back to what we thought we had accomplished in the Workers' Comp reform.

120 CHAIR DERFLER: Is there anything in the bill which you feel is damaging?

130 SEN. LEONARD: On page 14, lines 4, 5 and 6, how is this consistent with the Mahoney/Hall compromise of 1990?

170 SEN. LEONARD: Were pre-existing condition discussed in 1990?

181 SEN. ADAMS: It is my understanding that in Monday's testimony, we heard that page 14, lines 4, 5 and 6 the proposed law is an already existing rule administrative rule.

200 SEN. ADAMS: We will have 2 bills coming forward which will give the legislature oversight of administrative rules, I hope that we can count on your(Sen. Leonard) vote.

208 SEN. LEONARD: You can count on me co-sponsoring those bills if your bring them to me.

214 SEN. LEONARD: On page 3, section 1 (17), lines 19 through 23, was this discussed in 1990.

240 SEN. LEONARD: Could you explain the intent of 1990, in section 1 (19).

272 SEN. LEONARD: On page 4, lines 25 - 40, is this a large change from the current language?

310 ED REDMAN: I don't see it as functioning that way.

360 SEN. LEONARD: My concern is that we are doing something here that violates the balance that was established by the Mahoney/Hall Compromise.

390 SEN. LEONARD: Asks if Ed Redman believes that page 5, lines 16 - 19 modifies the Work Comp system from the type of system it was designed to be, which is a remedial system?

420 SEN. ADAMS: Is there anything on page 5, lines 16 -19 that you believe favors either side of the Workers' Compensation law.

TAPE 23, B

040 ED REDMAN: The worker was guaranteed benefit insurance and gave them the no fault claim.

056 SEN. LEONARD: On page 58, section 60, do you believe that this impairs the collective bargaining agreement?

075 CHAIR DERFLER: This section was introduced by the Labor side of the Labor/Management Advisory Committee.

095 ED REDMAN: Prior to Mahoney/Hall the worker did not have a right to his/her job.

135 SEN. LEONARD: Please call this bill what it really is. I do support the issues in this bill which were discussed by the Labor/Management Advisory Committee.

150 SEN. ADAMS: I don't believe everyone has testified that this bill is solely housekeeping.

165 CHAIR DERFLER: Let me make clear that this bill was drafted taking in all perspectives, not only the Labor/Management Advisory Committee. We listened to Labor/Management Committee, doctors, lawyers.

183 SEN. BRYANT: We can't wait for the Labor/Management Advisory Committee to come to agreement. That is why we must take action.

198 ROGER LUEDTKE: Attorney testifying on behalf of the firm of Pulp and Talbot.

230 ROGER LUEDTKE: Discusses the need to keep the cohabitation benefits in the Workers' Compensation law.

260 KAREN MCNAMEE: Program Coordinator for Providence Health System MCO. Here to testify in favor of the MCO portions of the bill. [EXHIBIT B]

310 CHAIR DERFLER: Could you address the concerns that are represented in requiring the worker to switch to a MCO physician from their current physician.

360 KAREN MCNAMEE: Continuing with written testimony

384 CHAIR DERFLER: It has been suggested that there be a Doctor who specializes in that particular area. Would that be a problem?

425 KAREN MCNAMEE: Bringing in Managed Care will simplify the system

TAPE 24 B

024 NEIL BEDNARCZYK: Here to testify as an injured worker.

065 NEIL BEDNARCZYK: Continues testimony against SB 369.

090 JAMES HALL: Here to testify regarding MCO treatment.

130 JAMES HALL: Continues testimony against the HMO system. If we had not been able to go outside of the system the results would have been devastating

145 CHAIR DERFLER: Should there not be the MCO requirement?

155 SEN. KINTIGH: Do you have some suggested criteria for when you can go outside of the system?

165 JAMES HALL: An obvious criteria would be "is the individual getting results".

167 WONDER HALL: If a person continues in pain they should be able to get a

second opinion.

200 MISTI WITTENBERG: Here to testify in favor of SB 369.

240 MISTI WITTENBERG: It angers me that Workers' Compensation is compensable for stupidity.

255 CHAIR DERFLER: This bill was developed so that this is a no fault system. It protects you from being sued by an employer but you must give up your right to not compensate stupid acts by employees.

295 PAUL WITTENBERG: We are in support of the bill.

305 LISA TRUSSELL: Testifies regarding the Labor/Management Advisory Committee. [EXHIBIT C]

362 LISA TRUSSELL: We had four issues which we discussed in the Advisory Committee from management perspective: court cases, MCO immediate entry, strengthening of drug & alcohol language, procedural & administrative type changes.

373 SEN. LEONARD: Can you point out where in the bill it discusses drug & alcohol issues?

386 LISA TRUSSELL: Page 2, lines 21- 24.

400 SEN. LEONARD: When was the discussion raised regarding cohabitants?

410 LISA TRUSSELL: It was discussed regarding in relation to survivor benefits.

TAPE 25, A

013 LISA TRUSSELL: We were discussing concepts not particular changes.

047 LISA TRUSSELL: It was management's position to get back to where we thought we were with SB 1197

055 SEN. LEONARD: On page 14, section 14, beginning on line 4, this language would seem to indicate that if you qualify for a part time job at minimum wage it would disqualify you from benefits, was this discussed by the Labor/Management Advisory Committee?

070 LISA TRUSSELL: I don't think we discussed gainful employment.

113 CHAIR DERFLER: Closes PUBLIC HEARING on SB 369

Meeting adjourned.

Submitted by, Reviewed by,

Amy Baker Rita Thomas
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Testimony on SB 369-Ed Redman-4 pages
- B - Testimony on SB 369-Karen McNamee-3 pages
- C - Testimony on SB 369-Lisa Trussell-1 page