

SENATE COMMITTEE ON
LABOR AND GOVERNMENT OPERATIONS

February 17, 1995 Hearing Room B
8:00 AM Tapes 47 - 50

MEMBERS PRESENT:

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

MEMBER EXCUSED:

Sen. Neil Bryant

STAFF PRESENT:

Rita Thomas, Committee Counsel
Henry Tilghman, Research Assistant
Amy Baker, Committee Assistant

MEASURES HEARD:

SB 369 - Work Session

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 47, A

005 CHAIR DERFLER: Calls the meeting to order at 8:00

006 CHAIR DERFLER: Opens WORK SESSION on SB 369.

008 RITA THOMAS: Reads letters into record. [EXHIBIT A] [EXHIBIT B] [EXHIBIT C] [EXHIBIT D] [EXHIBIT E]

025 JERRY KEENE: Reviews proposed amendments to SB 369.

035 SEN. LEONARD: Isn't the legislatures who create legislative intent?

044 SEN. MCCOY: If the author of the amendment gives his intent, then, that is the intent of the amendments.

046 SEN. KINTIGH: If we accepted the amendments then the intent of the amendments becomes the legislatures intent.

049 JERRY KEENE: I believe my testimony is evidence of legislative intent.

099 SEN. LEONARD: Are you confining your presentation to the changes in SB
369?

100 JERRY KEENE: Yes. Begins discussion of amendment changes in section 1.

135 JERRY KEENE: Starts discussion on page 1, of hand engrossed bill.

160 SEN. LEONARD: Asks about change related to pre-existing conditions.

212 JERRY KEENE: Discusses changes related to non-disabling claims.

255 JERRY KEENE: Gives definition of attending physician.

296 JERRY KEENE: Discusses language related to medically stationary.

325 REP. MANNIX: Discusses objective findings language in SB 369.

352 SEN. LEONARD: What would be an example of something that would have
been paid for in 1990, but non-compensable under this new legislation?

358 REP. MANNIX: Gives example of situation.

386 JERRY KEENE: Discusses court interpretation of 1990 objective finding
language.

TAPE 48, A

020 REP. MANNIX: Discusses doctors findings and verifying methods of
injuries.

060 JERRY KEENE: Discusses his experience with the medical field and
objective findings.

095 JERRY KEENE: Discusses compensable injuries and exclusive remedy.

133 JERRY KEENE: Continues discussion of compensable injuries.

175 JERRY KEENE: Discusses availability of remedies(exclusive remedy).

220 SEN. LEONARD: Gives example of a problem that may occur related to
exclusive remedy and objective findings.

230 JERRY KEENE: Responds to Sen. Leonard's concerns.

305 JERRY KEENE: Discusses the history of exclusive remedy clause.

320 JERRY KEENE: References changes on page 9, line 4, non-complying
employers/funds.

TAPE 47, B

010 REP. MANNIX: Clarifies the assignment of claims to insurance companies.

042 JERRY KEENE: Discusses laws related to an employee who files two claims
in different states.

078 JERRY KEENE: Discusses change in cohabitation benefits.

108 JERRY KEENE: Discusses clause related to gainful employment.

145 JERRY KEENE: Discusses change on page 18, line 30, repeal of ORS 656.226.

200 REP. MANNIX: Discusses benefit reduction for aliens.

226 JERRY KEENE: Discusses changes in section 24.

268 REP. MANNIX: Discusses compensable medical services.

300 JERRY KEENE: Discusses palliative care.

350 JERRY KEENE: Discusses section 27, Managed Care Organizations.

390 REP. MANNIX: Speaks to the changes related to reviews done by the Medical Director and Peer Review of physicians assessments.

415 Jerry Keene: Clarification of when a worker has the right to stay with their own physician rather than be treated by the MCO.

TAPE 48, B

030 JERRY KEENE: "For the record, the MCO decision process, peer review process and appeal to the department are intended to be exclusive and there should not be parallel jurisdiction and duplicative litigation going on over in the Workers' Compensations board's hearings division?"

045 SEN. KINTIGH: If the MCO did not have a chiropractor on staff would they have to get one?

047 REP MANNIX: Yes, the MCO has to make a chiropractor available.

077 REP MANNIX: Discusses changes related to fee schedule.

120 JERRY KEENE: Discusses modification on engrossed bill page 27, time loss pay.

171 REP. MANNIX: Discusses time loss changes page 27 (continued) of engrossed bill.

225 JERRY KEENE: Explains time loss requirements.

270 JERRY KEENE: Discusses employer right to pay up to a \$500.00 claim, without putting the claim on their record.

300 JERRY KEENE: Explains change which involves workers written acceptance of any new medical condition.

350 SEN. LEONARD: Discusses the change related to employer's denial of claim, relating to substantial evidence.

414 JERRY KEENE: Discusses definition of medically stationary.

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035 JERRY KEENE: Discusses the second physician analysis, testing on injuries.

061 JERRY KEENE: Discusses change related to direct medical sequelae, a

change which the Department requested.

091 JERRY KEENE: Discusses aggravation of conditions, or worsening of conditions.

116 REP. MANNIX: Describes the origins of the "waxing and waning" language, a product of the courts.

170 REP. MANNIX: Continues discussion of aggravated and worsened conditions.

220 REP. MANNIX: Discusses attorney fees.

260 JERRY KEENE: Discusses claim of employer, assigning fault to other employers

281 CHAIR DERFLER: Recesses meeting for 5 minutes.

282 CHAIR DERFLER: Ends recess

320 JERRY KEENE: Discusses changes related to review and appeals.

380 SEN. LEONARD: Questions hearing process for claims related to evidence that can be brought before the Director.

TAPE 50, A

023 JERRY KEENE: Discusses mandated attorney fees paid by the insurers.

065 JERRY KEENE: Reference page 49 of hand engrossed bill.

090 JERRY KEENE: Discusses the change to laws relating to Workers' Compensation Board and referees.

140 REP. MANNIX: Discusses the referees right to appeal.

190 REP. MANNIX: Discusses termination appeal rights.

230 SEN. LEONARD: Is there any precedence related to appeal rights?

275 SEN. MCCOY: If this situation never happens, why even have this section in the bill?

285 REP. MANNIX: We are revisiting the language related to referees.

330 SEN. LEONARD: Discusses the referee's loss of appellate rights.

385 JERRY KEENE: Discusses section 55, page 55 of hand engrossed bill

TAPE 49, B

020 JERRY KEENE: Discusses changes related to the Department's right to issue orders.

047 JERRY KEENE: Reference page 56 of hand engrossed bill subsection (h) and (I).

088 JERRY KEENE: Continues discussion related to changes regarding occupational diseases.

130 JERRY KEENE: Discusses funds controlled by the Department.

171 REP. MANNIX: Discusses composition of board and the standards used to elect the board.

187 REP. MANNIX: Discusses effective date of the proposed measure.

223 VIRLENA CROSLY: Administrator of Workers' Compensation division.

255 VIRLENA CROSLY: References the Departments submittal of amendments relating to bills submitted on the house side. Specifically, HB 2107.

290 SEN. MCCOY: Asks how many bills submitted by the department were not brought before this committee with the proposed amendments.

295 VIRLENA CROSLY: 13 bills. Describes bills and their present status.

345 VIRLENA CROSLY: On page 60 of the hand engrossed bill, discusses the repeal of statute, allowing the Department to go back to the language prior to 1993. specifically related to exemptions.

TAPE 50, B

020 SEN. MCCOY: Discusses the need of the committee to have a well rounded discussion on the subject including the perspective of the Governor's office.

045 CHAIR DERFLER: Closes WORK SESSION on SB 369.

055 CHAIR DERFLER: Adjourns meeting.

Submitted by, Reviewed by,

Amy Baker Rita Thomas
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 369 - Frank J. Murray - 2 pages
B - Testimony on SB 369 - Jeannett Conner - 1 page
C - Testimony on SB 369 - Wallace P. Carson - 2 pages
D - Testimony on SB 369 - Keith Johnston - 1 page
E - Testimony on SB 369 - Diane Rosenbaum - 9 pages
F - Table analysis of SB 369 - Committee Staff - 22 pages
G - Hand engrossed bill with proposed amendments - Rita Thomas - 86 pages