

HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON LABOR

April 28, 1993 Hearing Room D 8:30 a.m. Tapes 99 - 101

MEMBERS PRESENT: Rep. John Watt, Chair

Rep. Lee Beyer

Rep. Charles Starr

Rep. Bob Tiernan

MEMBER EXCUSED: Rep. Michael Payne

STAFF PRESENT: Marilyn Johnston, Committee Administrator Kimberly Burt,  
Committee Assistant

MEASURES CONSIDERED: HB 2037 HB 3369 HB 2574 HB 2634

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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. [--- Unable To Translate Graphic ---]

TAPE 99, SIDE A

CHAIR WATT: Calls the meeting to order. (9:46 a.m.)

PUBLIC HEARING ON HB 2037 Witnesses: Fred Vannatta, Home Builders Association Jack Pompei, OR-OSHA Joe Gilliam, National Federation of Independent Businesses, (NFIB)

MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Submits preliminary staff measure summary, fiscal and revenue impact statements, (EXHIBIT A).

010 CHAIR WATT: Describes HB 2037 and the necessity for the bill.

\_ There has been opposition to this; I'm comfortable with the fact that we did the right thing last session, but this bill needs to be part of that package.

035 FRED VANNATTA, HOME BUILDERS ASSOCIATION: Testifies in opposition to HB 2037.

\_ We need to do what is right and it isn't right to fine an employer \$7000 for not having a sheet of paper on the wall.

CHAIR WATT: If we were to not pass this legislation what would the impact be on people in the home building industry?

VANNATTA: OR-OSHA and the home builders have been discussing it; I don't think we'd be any worse off.

097 REP. BEYER: Does OR-OSHA normally levy maximum fines?

VANNATTA: No; the level could increase.

125 JACK POMPEI, ADMINISTRATOR, OR-OSHA: Testifies in support of HB 2037.

\_ This isn't an automatic \$7000 penalty, it is "not more than" \$7000.

\_ This is a housekeeping bill to be as effective as the federal government, but unless there is an employer that absolutely won't post the information, the \$7000 penalty wouldn't be given.

157 CHAIR WATT: What administrative sanctions have we undergone because we didn't pass this two years ago?

POMPEI: Every time we get our evaluation we get written notice of being insufficient on posting.

200 REP. BEYER: What is the average fine now?

POMPEI: Maybe a couple hundred dollars; fines are determined depending on what isn't posted.

REP. BEYER: Has any state agency considered developing a single poster that covered all the posting required?

POMPEI: The agricultural community is attempting to, to the best of my knowledge.

275 REP. TIERNAN: Is there a problem with Oregon employers complying?

POMPEI: No; the federal rule does preclude warnings, violations are dealt with through penalties.

315 REP. BEYER: Does the federal law say what you have to fine?

POMPEI: We have latitude on that.

340 JOE GILLIAM, NATIONAL FEDERATION OF INDEPENDENT BUSINESSES, (NFIB): Testifies in opposition to HB 2037.

\_ You have an opportunity to make a statement that \$7000 is excessive for a small business community.

GILLIAM: I would ask if increasing a fine \$6000 is reasonable and if it is something we need to do right now.

445 REP. BEYER: Would your members prefer to deal with the federal government as opposed to OR-OSHA?

GILLIAM: People have begun to deal with OR-OSHA, it has been positive and I don't know that the federal government would provide consultation, so that would be where the loss is.

TAPE 100, SIDE A

040 CHAIR WATT: It is important to understand what triggered the

high increase in the penalties.

050 POMPEI: Reads statistics of violations and penalties for positing violations.

065 REP. TIERNAN: There are no fines of \$1000?

POMPEI: That is correct; the consequence for not passing this would be federal harassment.

PUBLIC HEARING ON HB 2574 Witnesses: Rep. Tom Mason, House District 11 Billy Wasson, Director, Marion County Corrections John Bailey, Service Representative, Federation of Oregon parole and Probation Officers Jim Kiely, Federation of Oregon parole and Probation Officers Scott Taylor, Department of Corrections Art James, State of Oregon, Executive Department Bob Kyser, Oregon Council of Police Associations, (OCPA)

MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Submits preliminary staff measure summary and revenue impact statement, (EXHIBIT B).

105 REP. TOM MASON, HOUSE DISTRICT 11: Testifies in support of HB 2574.

REP. TIERNAN: Has there been a threat to strike?

REP. MASON: Not that I know of.

REP. BEYER: Clarifies history of the measure; we are reaffirming existing state law?

189 BILLY WASSON, DIRECTOR, CORRECTIONS DEPARTMENT, MARION COUNTY CORRECTIONS: Testifies in opposition to HB 2574.

REP. TIERNAN: They have been allowed to strike? WASSON: Prior to the ruling, it was interpreted that they were not entitled to strike and were entitled to binding interest arbitration.

REP. BEYER: Do you think that police or parole officers should be able to strike?

WASSON: I do not.

275 JOHN BAILEY, SERVICE REPRESENTATIVE, FEDERATION OF OREGON PAROLE AND PROBATION OFFICERS: Testifies in support of HB 2574, submits written testimony and informative material, (EXHIBIT C).

425 JIM KIELY, PRESIDENT, FEDERATION OF OREGON PAROLE AND PROBATION OFFICERS: Testifies in support of HB 2574.

\_ The booklet passed out, Exhibit C, contains many statements that I would make; we deal with 100% felons and we have intensive contact with our supervisors.

TAPE 99, SIDE B

035 CHAIR WATT: Are parole and probation officers sworn officers?

BAILEY: Yes.

REP. TIERNAN: Do parole and probation officers carry weapons?

KIELY: Some do.

BAILEY: It is different in each bargaining unit.

092 SCOTT TAYLOR, DEPARTMENT OF CORRECTIONS: Testifies in opposition to HB 2574.

REP. BEYER: Are all parole and probation officers in the state covered by statute?

TAYLOR: Yes; the State Department of Corrections' position is that those folks don't need to be strike prohibited.

ART JAMES, STATE OF OREGON, EXECUTIVE DEPARTMENT: There is supervision by the Executive Department and we agree with the Department of Corrections.

126 REP. BEYER: You believe that all parole and probation officers are now removed from interest binding arbitration?

JAMES: Correct.

160 REP. BEYER: If the parole and probation officers did strike, would Oregonians be safe?

TAYLOR: The question would come down to are the citizens at risk; when you use the time frame of months, we would have problems monitoring people.

\_ We do believe we could manage crisis cases.

CHAIR WATT: Would you present your contingency plan that would be used if there were a strike?

TAYLOR: We haven't been faced with that; we believe that with the existing management structure, we could manage.

CHAIR WATT: Within a week I want a letter sent to committee members along with the contingency plan.

JAMES: In the Public Employees Bargaining Act there are steps intended to bring the parties together.

REP. TIERNAN: Discusses interest binding arbitration history.

242 BOB KYSER, OREGON COUNCIL OF POLICE ASSOCIATIONS, OCPA: Testifies in support of HB 2574.

\_ We feel that parole and probation officers are peace officers, law enforcement people, and should be prohibited from striking.

PUBLIC HEARING ON HB 2634 Witnesses: Rep. Lonnie Roberts, House District 21 Tom Desylvia, Portland, Oregon

MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Submits preliminary staff measure summary, fiscal and revenue impact statements, (EXHIBIT D).

400 REP. LONNIE ROBERTS, HOUSE DISTRICT 21: Testifies in support of HB 2634; describes measure.

430 TOM DESYLVIA, PORTLAND OREGON: Testifies in support of HB 2634; submits written testimony, (EXHIBIT E).

TAPE 100, SIDE B

035 DESYLVIA: Continues with written testimony, see Exhibit E.

085 REP. ROBERTS: There are a number of people who got caught in this "catch 22" and wish to purchase these credits back.

PUBLIC HEARING ON HB 3369 Witnesses: Jack Pompei, Administrator, OR-OSHA Dave Heida, Workers Compensation Manager, Associated Oregon Loggers Jim Lemery, Don Whitaker Logging, Roseburg, Oregon Lloyd Helikson, Associated Oregon Loggers John Gervais, Southern Oregon Employees Council, Medford Chamber of Commerce and Jackson County

100 JACK POMPEI, ADMINISTRATOR, OR-OSHA: Testifies in opposition to HB 3369.

\_ Submits written testimony for the record from Karl Frederick, (EXHIBIT F).

\_ We settle 90% of our cases informally; only 10% may go to a formal hearing and out of that 10%, there are some settlements out of informal conferences.

\_ If you feel this would be appropriate, I suggest that OR-OSHA be reimbursed when we win.

161 REP. TIERNAN: Is it fair that the employer has to spend a lot of money to prove they are right?

POMPEI: Fairness isn't the issue; there is a fiscal impact in this bill, which is large.

215 REP. TIERNAN: If OSHA is proved wrong, the employer has to pay, and that isn't fair.

POMPEI: The employer chooses, I become the defendant.

235 DAVE HEIDA, WORKERS COMPENSATION MANAGER, ASSOCIATED OREGON LOGGERS: Testifies in support of HB 3369; submits written testimony, (EXHIBIT G).

305 HEIDA: Summarizing written testimony, see Exhibit G.

433 HEIDA: I would call your attention to additional information in the packet, see Exhibit G.

TAPE 101, SIDE A

070 HEIDA: Describes last page of Exhibit G.

115 CHAIR WATT: Would you agree to allowing the prevailing party to recover attorney fees?

HEIDA: No.

131 JIM LEMERY, DON WHITAKER LOGGING, ROSEBURG OREGON: Reads letter for the record, see Exhibit G.

\_ I don't understand the prejudice against employers; it seems at times state agencies can destroy employers.

185 CHAIR WATT: The \$17,600 that your attorney charged you, do you feel that was a fair compensation?

LEMERY: Yes.

220 LLOYD HELIKSON, ASSOCIATED OREGON LOGGERS: Testifies in support of HB 3369; submits and summarizes written testimony, (EXHIBIT H).

\_ I have submitted information on two cases, see Exhibit H.

325 JOHN GERVAIS, SOUTHERN OREGON EMPLOYEES COUNCIL, MEDFORD CHAMBER OF COMMERCE AND JACKSON COUNTY: I am willing to wait for the next hearing to testify.

CHAIR WATT: We are adjourned. (12:05)

Submitted by, Reviewed by,

Kimberly Burt Marilyn Johnston Committee Assistant Committee Administrator

#### EXHIBIT SUMMARY:

A - HB 2037: Staff measure summary, fiscal and revenue impact statements submitted by staff, pp 3 B - HB 2574: Staff measure summary and revenue impact statement submitted by staff, pp 2 C - HB 2574: Written testimony and informative material submitted by Bailey, pp 72 D - HB 2634: Preliminary staff measure summary, fiscal and revenue impact statements submitted by staff, pp 3 E - HB 2634: Written testimony submitted by DeSylvia, pp 2 F - HB 3369: Written testimony submitted by Pompei, pp 2 G - HB 3369: Written testimony submitted by Heida, pp 13 H - HB 3369: Written testimony submitted by Helikson, pp 13 I - HB 2574: Written testimony submitted by Minnis, pp 2