

HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON LABOR

May 19, 1993 Hearing Room D 8:30 a.m. Tapes 116 - 117

MEMBERS PRESENT: Rep. John Watt, Chair

Rep. Lee Beyer Rep. Michael Payne

Rep. Charles Starr

Rep. Bob Tiernan

STAFF PRESENT: Marilyn Johnston, Committee Administrator Kristina
McNitt, Committee Assistant

MEASURES CONSIDERED: HB 2039 HB 3643 [--- Unable To Translate Graphic
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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 116, SIDE A

CHAIR WATT calls the meeting to order at 9:50 a.m. and opens the work
session on HB 2039.

HB 2039 - WORK SESSION

The Preliminary Staff Measure Summary, letter from Workers' Compensation
Division, Dept. of Insurance and Finance, memo from Tom Mattis, Workers'
Compensation Division, HB 2039-2 amendments. electronically engrossed
bill and Legislative Fiscal and Revenue statements are hereby made a
part of these minutes (EXHIBIT A).

010 MARILYN JOHNSTON, Committee Administrator reviews the
Preliminary Staff Measure Summary and the HB 2039-2 amendments
(EXHIBIT A).

015 MOTION: REP. STARR moves that the HB 2039-2
amendments BE ADOPTED.

017 REP. TIERNAN comments that he was moved by the testimony that
when an employer has an accident on his premises caused by a third
party and it causes injury and causes the employer's rates to go up
substantially, even though the third-party claim isn't disposed of for
years, his rates will go up based on the actions of the third party. I
don't think that was fair and have drafted an amendment but have been
advised that it cannot be included in this bill because it is not within
the scope of the relating clause.

034 VOTE: In a roll call vote, REPS. STARR, TIERNAN and
CHAIR WATT vote AYE. REPS. PAYNE and BEYER are EXCUSED.

036 MOTION: REP. STARR moves that HB 2039, as amended, be sent to the Full Commerce Committee with a DO PASS recommendation.

039 VOTE: In a roll call vote, REPS. STARR, TIERNAN and CHAIR WATT vote YES. REPS. PAYNE and BEYER are EXCUSED.

041 CHAIR WATT declares the motion PASSED. REP. TIERNAN will lead discussion in the Full Commerce Committee.

(Tape 116, Side A) HB 3643 - PUBLIC HEARING

CHAIR WATT opens the public hearing on HB 3643.

The Preliminary Staff Measure Summary and Legislative Fiscal and Revenue statements are hereby made a part of these minutes (EXHIBIT B).

044 MARILYN JOHNSTON, Committee Administrator, reviews provisions of the bill.

050 CHAIR WATT closes the public hearing due to lack of witnesses to testify.

052 REP. STARR comments he was in the Ways and Means Committee where this mater was discussed. Both labor and management testified in favor of the proposal to institute this fee so that mediation could be conducted at the site of negotiations.

CHAIR WATT opens the work session on HB 3643.

(Tape 116, Side A) HB 3643 - WORK SESSION

067 REP. STARR: In the Appropriations B and the Joint Ways and Means Committee, the function of the Employment Relations Board was discussed in regards to mediation in contract negotiations. Because of reductions in staffing it was apparent they would no longer be able to provide mediation services at the location of the negotiations, and would only be able to mediate if the parties were to travel to Salem. It was felt that by providing a fee for mediation paid by each party, \$250 for labor and \$250 for management, this would fund an additional mediator position that would allow them to travel to cities around the state.

097 DAN ELLIS, Chairman, Employment Relations Board, testifies in favor of HB 3643 and confirms information and background given by REP. STARR. >Budget cuts necessitated the elimination of travel costs and time of mediators >Cut was Legislative Fiscal suggestion

121 REP. PAYNE asks if there are no fees now.

125 MR. ELLIS: No fees are charged now to local governmental agencies or those unions.

136 REP. TIERNAN asks questions regarding the division of fees between government agencies and unions, and about costs incurred by mediator.

138 MR. ELLIS: The \$250 per party should be sufficient to pay for the costs of travel and adding back a mediator. The \$250 to each party is a one-time fee.

143 CHAIR WATT asks questions about administrative costs.

147 MR. ELLIS: Budget and Management will assist in setting up a billing system.

154 VICKIE TOTTEN, Oregon School Board's Association testifies in support of HB 3643: >Board's budget has been reduced. >With both parties paying the fee, mediation may be completed more quickly.

180 REP. TIERNAN asks if the OSB A would have any opposition to paying the travel costs and hotel charges of the mediator?

183 MS. TOTTEN: No, I think it would be an incentive to get it done.

193 REP. TIERNAN: My point is often times travel is more excessive than the fee for arbitration.

198 MS. TOTTEN: If the committee is interested in setting a travel rate, it would be great.

195 REP. PAYNE: If we were to set a travel rate, do you think it would fall disproportionately on far reaching districts?

208 MS. TOTTEN: Every employer and employee group has the option of settling through mediation.

209 REP. STARR: This was not discussed in Appropriations. The suggestion was that the flat fee would cover all costs. Everyone would then pay the fee with the costs being spread. I think equity would be to have a flat fee and would urge the committee to move the bill as proposed.

217 REP. BEYER: Are mediation services provided free?

231 CHAIR WATT: There is a projected loss of four positions. This bill would allow them to hire back one.

246 CHAIR WATT invites Dan Ellis to give an historical perspective on mediation services.

247 MR. ELLIS gives historical background highlighting funding mechanisms since 1973 when the Public Employee Bargaining Act was adopted.

263 REP. BEYER: How many of the estimated 324 mediation are for the state and how many are local contracts?

268 MR. ELLIS: The board estimates the 324 will be other than state mediation, based on historical analysis.

282 REP. TIERNAN: Do you think it would be reasonable or hurt the process to charge costs in addition to the fee?

284 MR. ELLIS: The calculation used by Legislative Fiscal was of the 324 mediation during the biennium at \$500 would generate \$162,000 of which \$153,000 was to be put into the budget. The actual cost of the mediator's salary and OPE is about \$124,000 to \$125,000. The difference between the \$125,000 and \$153,000 had been built in as travel costs, mileage, etc. It was the feeling the costs had been built

in. The board could direct bill for those costs because they are an expense item to the agency directly through the expense account with per-mile travel by car, the hotel and any meals on the road. The agency bills local governments and unions for other services such as decisions, etc.

356 REP. TIERNAN: More costs compel an expedient agreement; the expenses put pressure on all parties.

358 REP. BEYER: I absolutely agree. These expenses should be bourn by those who use them, not the state taxpayer. We should not be attributing costs to the state agencies to support a service of which state agencies are the primary beneficiary.

385 REP. PAYNE: I have to object to Tiernan's suggestion due to great travel expenses impact on smaller rural districts.

399 CHAIR WATT asks Rep. Payne if he would be interested in looking at the assessment being based on the funding formula for schools?

424 MOTION: REP. TIERNAN moves that HB 3643 be amended: that the fee be set at \$300 per day plus costs for providing the services of a mediator.

435 CHAIR WATT requests that Rep. Tiernan withdraw his motion to allow time to discuss the proposal with others.

441 REP. TIERNAN withdraws his motion and explains that based on the salary, the costs would be about \$300 per day and the costs would put pressure on the parties to reach agreement.

TAPE 117 SIDE A

Discussion continues: >there are currently five mediators; this proposal would restore the position to be deleted June 1. The mediator who would have been laid off will replace one who left earlier. This will result in six mediators. >rate of subsidy by the state to non-state agencies

091 CHAIR WATT advises the witnesses that another hearing will be scheduled on this bill and requests that Mr. Ellis provide justification for the sixth mediator, information on the amount of state subsidy to local governments, and the effect of disproportionate fees on rural areas.

133 MARIA KELTNER, representing cities and counties: The League of Oregon Cities and Association of Oregon Counties have a qualified support for this bills. They have said if it is a choice between everyone coming to Salem with the bargaining team and support people for mediation choice, and the \$250, they support the \$250 with the union also paying \$250.

154 REP. BEYER: Why should the people of Rep. Payne's district pay for mediating a dispute in my district?

167 MS. KELTNER: There was discussion that those closer to Salem should pay less.

Discussion continues on equity and fairness of arbitration fees.

>process of selecting arbitrator from a list.

239 MR. ELLIS advises the committee that their budget as proposed by the Executive Department severely cuts the agency in a number of areas. This bill would not restore all of it; it would restore a portion which would allow the agency to continue to do collective bargaining mediation, the mediation of grievances under terms of a contract, mediation of unfair labor practices, and training in non-combative bargaining techniques.

277 CHAIR WATT: Is the state the only mediation service in Oregon?

MR. ELLIS: Yes, and that is by law, ORS chapter 662.

308 REP. TIERNAN questions why the state is spending money to save the unions money?

314 MR. ELLIS: The Oregon statute was modeled after the federal statutes.

326 REP. BEYER requests that Mr. Ellis also provide information on how often mediation solves the issue of dispute versus those that go on to the next stages.

335 MS. TOTTEEN comments that the result of an adjusted fee versus a flat fee, is an adjusted fee, at least in the mediator's mind, will be the same quality service.

368 CHAIR WATT closes the work session and declares the meeting adjourned at 10:45 a.m.

Respectfully submitted,

Reviewed by,

Annetta Mullins
Coordinator Administrator

Marilyn Johnston

EXHIBIT SUMMARY

A - Preliminary Staff Measure Summary, letter from Workers' Compensation Division, Dept. of Insurance and Finance, memo from Tom Mattis, Workers' Compensation Division, HB 2039-2 amendments. electronically engrossed bill and Legislative Fiscal and Revenue statements, staff, 11 pp B - The Preliminary Staff Measure Summary and Legislative Fiscal and Revenue statements, staff, 3 pp