

HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON LABOR

June 2, 1993           Hearing Room D 8:30 a.m.   Tapes 125 - 128

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 2012 - Public Hearing and Possible Work Session  
HB 2282 - Public Hearing and Possible Work Session HB 2351 - Public  
Hearing and Possible Work Session HB 3111 - Public Hearing and Possible  
Work Session HB 3636 - Public Hearing

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These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in  
quotation marks reports a speaker's exact words. For complete contents  
of the proceedings, please refer to the tapes. [--- Unable To Translate  
Graphic ---]

TAPE 125, SIDE A

CHAIR WATT calls the meeting to order at 8:33 a.m.

PUBLIC HEARING ON HB 2012

012 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR, submits and reviews  
measure summary package. (EXHIBIT A)

014 VICKI TOTTEN, OREGON SCHOOL BOARDS ASSOCIATION, gives  
additional information and discusses proposed amendments. (see EXHIBIT  
A)

WORK SESSION ON HB 2012

039 MOTION: REP. BEYER moves that the -1 amendments to HB  
2012 be ADOPTED.

043 REP. WATT asks Rep. Tiernan if he intends to pursue the -2  
amendments to HB 2012.

048 REP. BEYER withdraws his motion to adopt the -1 amendments to HB  
2012.

049 MOTION: REP. TIERNAN moves that the -2 amendments to HB  
2012 be ADOPTED.

Discussion: REP. TIERNAN explains reasons for -2 amendments.

073 REP. BEYER asks whether the provisions of the bill are limited to just public employees. VOTE: In a roll call vote REPS. STARR, TIERNAN, and CHAIR WATT vote AYE, REPS. PAYNE and BEYER vote NO, and the amendments are ADOPTED.

MOTION: REP. TIERNAN moves HB 2012, as amended, to the full committee with a DO PASS recommendation.

VOTE: In a roll call vote all members are present and vote AYE, and the motion CARRIES

REP. TIERNAN will carry the bill

PUBLIC HEARING ON HB 2282

117 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR, submits and reviews measure summary package. (EXHIBIT B)

135 JOHN BOOTEN, DEPARTMENT OF INSURANCE AND FINANCE OMBUDSMAN, testifies in support of the bill and reviews the machine-engrossed -2 amendments for the committee.

175 REP. TIERNAN asks BOOTEN about leaves-of-absence.

190 BOOTEN: We do not intend to license and regulate temporary services. Continues overview of -2 amendments.

220 CHAIR WATT asks about coverage by leasing companies.

233 REP. TIERNAN asks about the intent of the bill, using the example of the leasing of drivers.

250 BOOTEN: Responds.

278 REP. TIERNAN explains which situations he feels are covered under the bill.

300 BOOTEN responds and continues overview.

375 REP. TIERNAN: There is no statute to require an employer to provide adequate training, instruction, or supervision.

417 JOE MILLER, OREGON OSHA: Responds to REP. TIERNAN.

435 CHAIR WATT: Suggests putting Section 4 into the rules. Why does it have to be in the statute?

447 MILLER: I'm not sure that's possible.

450 BOOTEN: Clarifies.

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029 REP. TIERNAN: A leasing company is an employer. Aren't they subject to this already?

033 MILLER: Yes, but there is an issue of the direction and control of employees. The client is responsible for the safety of the

work site.

The employer must ensure that the client adequately trains and supervises the workers. We feel the bill clarifies who is responsible.

048 CHAIR WATT: I don't see how it does clarify that. The leasing company and the client can both use the provisions in this bill to their

advantage.

063 MILLER: We have cited leasing companies for not assuring that the compliant provides adequate training. The statute does not clearly

point out this requirement.

069 CHAIR WATT: Asks what is done when the leasing company and the client dispute responsibility.

074 MILLER: We would handle it the same as we do currently, but the statutes are not clear enough for us to be successful in challenges.

085 CHAIR WATT: How will the leasing company approve their assurance?

087 MILLER: Through written documentation.

094 BOOTEN: Continues overview.

118 REP. TIERNAN: Asks about experience rating and cites example.

131 BOOTEN: The experience rating has a three-year life. If there is a leasing company they assume that responsibility. Further explains

language regarding this situation.

161 REP. TIERNAN: To be subject to this act someone has to lease out their entire employee operation?

163 BOOTEN: If they have their own coverage, nothing changes. If they want the leasing company to cover worker's compensation, that will be

impacted by the experience they have as an insured employer in this state.

167 REP. TIERNAN: Let's say I no longer have any employees, but lease them through a company. Who will insure that the safety standards are being

met?

177 BOOTEN: Explains the responsibilities of leasing companies. Continues explanation of Section 5, subsections (3) and (4).

219 CHAIR WATT: Asks about the necessary size of companies in order to be experience-rated.

220 BOOTEN: \$2500 a year in premium. Continues overview. 240 REP. TIERNAN: Asks for hypothetical examples of how this would apply currently in the Oregon work force, and of employers for whom this bill would be necessary.

248 BOOTEN: There are employers for whom confusion of the issue is great enough to merit the clarity this bill provides.

298 BILL CARDWELL, BUSINESS ADMINISTRATIVE SERVICES, testifies in support of HB 2282. Gives some business examples and testifies regarding companies hiring his employees to modify their bad worker's compensation rating.

TAPE 125, SIDE B

004 CHAIR WATT: Are you responsible for organizing the safety committee?

005 CARDWELL: No. We provide the resources, but the job site conducts the program.

013 CHAIR WATT: You have them sign off on that?

014 CARDWELL: Yes, it is part of our service agreement. Continues testimony.

043 REP. TIERNAN: Can you give us an example of the type of employees and leasing situations you enter into?

045 CARDWELL: About a third of my business relates to contractors. Others are retail, professional offices, or light manufacturers.

057 REP. TIERNAN: Would you expand on what the contractors do?

057 CARDWELL: Explains. The legal relationship is that we are a subcontractor to the general contractor.

070 REP. TIERNAN: How can you assure the safety requirements and training in your situation?

073 CARDWELL: We give new clients an overview of safety and some training. The job site is then responsible for safety.

086 REP. TIERNAN: Asks further about liability.

089 CARDWELL: It still lies with the person who has the responsibility of the job site.

098 REP. TIERNAN: Asks about language regarding supervision.

102 CARDWELL: The staff leasing company is responsible for the baseline training, not for assuring that all the safety practices are taking

place. I am willing to ensure that the general contractor understands his responsibility.

109 CHAIR WATT: Explains further. 113 CHRIS DAVIE, SAIF CORPORATION: Testifies in support of HB 228 2. Originally supported an even stricter version but close work within the industry and with insurers has produced the -2 amendments.

150 PATRICK GALLAGHER, SAIF CORPORATION UNDERWRITER: Testifies in support of HB 2282. Gives case history of problems and experiences.

212 PETER SCHENK, BARRETT BUSINESS SERVICES: Testifies in support of HB 2282.

259 CHAIR WATT: Addresses Mr. Booten, referring to Section 3, subsection (b). Asks about the fee.

278 BOOTEN: The department's preference would be to handle the fee by rule.

290 SCHENK: I don't have a problem with that as long as it is a reasonable amount. \$500 - \$1000 per year would be reasonable.

302 CHAIR WATT: I want more information about the administration of leasing companies.

307 GARY WEEKS, DIRECTOR OF DEPARTMENT OF INSURANCE AND FINANCE: We don't know the exact number of employee leasing companies in the state. The

department would determine by rule the fees and such fees would accrue in the amount necessary for regulation.

329 CHAIR WATT: Asks for language regarding this issue.

336 DAVE KEIM, ROSE CITY MOVING AND STORAGE: Testifies in support of HB 2282.

352 REP. TIERNAN: Why did you decide to use a leasing company instead of hiring your own employees?

354 KEIM: Explains.

378 REP. TIERNAN: Comments on Mr. Keim's situation.

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PUBLIC HEARING ON HB 2351

006 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Submits and reviews measure summary package. (EXHIBIT C)

017 CHAIR WATT calls recess until 10:10.

022 REP. GEORGE EIGHMEY, DISTRICT 14: Testifies in support of the -2 amendments to HB 2351 and discusses language.

063 REP. BEYER: Asks for further explanation of language. 078 REP. EIGHMEY: Explains "substantial evidence" and "frivolous."

081 REP. TIERNAN: Disagrees. Explains why, referring to Black's

Law Dictionary.

100 REP. EIGHMEY: Responds.

131 REP. KEVIN MANNIX, DISTRICT 32: Testifies in support of HB 2351 and discusses the terms "substantial evidence" and "ample authority."

155 REP. BEYER: If "substantial" is already defined someplace, let's use that definition here.

173 REP. MANNIX discusses meaning of different legal terms regarding evidence.

215 ROBERT C. A. MOORE, OREGON WORKER'S COMPENSATION ATTORNEYS AND OREGON TRIAL LAWYERS ASSOCIATION: Testifies in opposition to the -2 amendments to HB 2351.

WORK SESSION ON HB 2351

275 CHAIR WATT reads a definition of "frivolous appeal."

283 REP. MANNIX responds that the quote is from Black's Law Dictionary. Webster's Dictionary would define it as "of little weight or importance."

297 REP. BEYER: Would the Webster's definition be one we could be comfortable with?

300 REP. MANNIX: It doesn't deal with the matter of evidence.

307 REPS. MANNIX and BEYER continue discussion of definitions.

326 MOTION: REP. BEYER moves to remove the word "substantial" from page 2, line 8 of the -2 amendments to HB 2351 and that the -2 amendments, so amended, BE ADOPTED.

VOTE: In a roll call vote REPS. PAYNE and BEYER vote AYE, REPS. STARR, TIERNAN, and CHAIR WATT vote NO, and the motion FAILS.

MOTION: REP. TIERNAN moves that the -2 amendments to HB 2351 BE ADOPTED.

VOTE: In a roll call vote REPS. STARR, TIERNAN, PAYNE, and CHAIR WATT vote AYE, REP. BEYER votes NO, and the motion CARRIES.

MOTION: REP. TIERNAN moves HB 2351, as amended, to the full committee with a DO PASS recommendation.

VOTE: In a roll call vote REPS. TIERNAN, PAYNE, STARR, and CHAIR WATT vote AYE, REP. BEYER votes NO, and the motion CARRIES.

REP. TIERNAN will carry the bill.

WORK SESSION ON HB 2282

370 CHAIR WATT outlines -2 amendments to HB 2282, discusses changes.

401 REP. PAYNE objects to the lack of a specific dollar figure for

the fee.

408 MOTION: REP. BEYER moves to make the language changes to the -2 amendments discussed by CHAIR WATT, and that the -2 amendments to HB 2282, so amended, BE ADOPTED.

VOTE: In a roll call vote REPS. STARR, TIERNAN, BEYER, and CHAIR WATT vote AYE, REP. PAYNE votes NO, and the motion CARRIES.

MOTION: REP. BEYER moves HB 2282, as amended, to the full committee with a DO PASS recommendation.

VOTE: In a roll call vote REPS. STARR, PAYNE, BEYER, and CHAIR WATT vote AYE, REP. TIERNAN votes NO, and the motion CARRIES.

REP. BEYER will carry the bill

TAPE 127, SIDE A

PUBLIC HEARING ON HB 3111

010 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR, submits and reviews measure summary package (EXHIBIT D)

020 JIM CARLSON, OREGON MEDICAL ASSOCIATION, testifies in support of the bill.

048 DIANA GODWIN and TOM WILLIAMS, OREGON PHYSICAL THERAPISTS IN INDEPENDENT PRACTICE, submit and review written testimony in support of the bill.

(EXHIBIT E)

101 CHRIS DAVIES, SAIF CORPORATION, testifies in support of the bill.

PUBLIC HEARING ON HB 3636

162 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR, submits and explains measure summary package. (EXHIBIT F)

166 REP. SAM DOMINY, DISTRICT 44, testifies in support of the bill and gives legislative history of issue.

225 AMY KLARE, OREGON AFL-CIO, submits and reviews written testimony in support of HB 3636. (EXHIBIT G)

242 REP. TIERNAN: How does the amendment fit with COBRA?

247 CRAIG URBANI, DEPARTMENT OF INSURANCE AND FINANCE EXAMINER: Some employers are not covered by COBRA, and this bill would include those

employers. It gives additional protection to employees.

258 REP. TIERNAN: Can you explain how it goes beyond COBRA?

261 URBANI: It requires that the insurer provide notice at the time of cancellation to the employer, advising him that he is under obligation

to provide notice to his employees. The problem with COBRA is that if the employer has dropped the group coverage there is nothing left to continue.

267 TIERNAN: Does this situation really exist?

278 REP. DOMINY: It happened at Rogue Valley and also at Bald Knob in Oakridge. Employers are afraid of employee unrest when going through

rough times so they neglect to tell workers.

309 REP. TIERNAN: Wasn't Bald Knob an employer of over 20 employees? Wouldn't ERISA mandate that they inform their employees of the COBRA

option?

308 REP. DOMINY: Yes, but the least of their worries was getting a fine from the federal government. Cites example of employee dilemmas.

349 URBANI: Details loopholes that allowed the two cited cases to develop.

364 REP. TIERNAN: If this bill had been in effect at the time, what would have kept the employer from doing it anyway?

373 URBANI: Then the insurance company without the ability to collect premium is responsible for the payment of benefits that the workers

would have been entitled to under the group policy. It's a self-executing policy.

380 CHAIR WATT: Discusses notification proceedings and difficulties thereby. What about a requirement for BOLI to post a notice at the work site?

401 DOMINY: The cost would be a factor there.

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017 REP. TIERNAN: Sometimes the insurer will send notices to the employer and require them to post them.

020 CHAIR WATT: True, but given the employer in the above situations, he may not desire to post them. That's why it would be better for them to

be physically posted by a representative of the insurance company.

026 URBANI: The bill says that the insurance company is required to notify the employer and the employer is required to notify the employees.



032 CHAIR WATT: We were dealing in my district with over 80 people who lost their coverage. The employee has a right to know. We need to discuss

how and whom we can expect to be responsible.

050 RENEE CANNON, LEGISLATIVE ASSISTANT TO CHAIR WATT: Gives overview of what happened with the company in District 50.

084 CHAIR WATT adjourns the meeting.

Submitted by

Reviewed by

Elizabeth Gaupo

Marilyn Johnston Committee Clerk  
Committee Administrator

EXHIBIT LOG:

A - HB 2012 - Staff - 11 pages B - HB 2282 - Staff - 9 pages C - HB 2351  
A - Staff - 6 pages D - HB 3111 - Staff - 3 pages E - HB 3111 - Tom  
Williams - 3 pages F - HB 3636 - Staff - 2 pages G - HB 3636 - Amy Klare  
- 2 pages