

HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON LABOR

June 8, 1993 Hearing Room D 8:30 a.m. Tapes 133 - 135

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 3636 HB 3111 HB 2842 HB 3136

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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 133, SIDE A

CHAIR WATT: Calls the meeting to order. (8:40 a.m.)

WORK SESSION HB 3636 (EXHIBIT A)

MOTION: REP. TIERNAN MOVES HB 3636 TO THE FULL COMMITTEE AS AMENDED
WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MEASURE PASSES UNANIMOUSLY. MEMBERS
EXCUSED: PAYNE, BEYER

PUBLIC HEARING ON HB 3111

018 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Gives overview of bill
and explains provisions which would modify the procedure for
payment of medical services in disputed worker's compensation claim
settlement proceedings (EXHIBIT B).

025 ROSS DUNHILL, OREGON SELF INSURERS ASSOC: Testifies in favor
of HB 3111 and proposed -1 amendments.

Recommends an additional amendment on page 2, section 1 line 24, that
references to the health insurers be eliminated. Could take out the
entire subsection B.

066 REP. WATT: The reason for this is what?

067 DUNHILL: It would eliminate the requirement that health insurance companies be reimbursed from the proceeds of the worker's compensation settlement on a non-compensable claim.

068 REP. WATT: Is this what the whole work group arranged?

069 JIM CARLSON, OREGON MEDICAL ASSOC: We were still working on it when you called us in. We took the SAIF amendments and then went back to the SAFECO amendments that were before the committee at the last hearing and pulled out health insurers. There is agreement to make two additional changes. On page 2, line 11 of the electronically engrossed version, insert after the word provider, "and health insurance provider".

091 REP. WATT: This would necessitate deleting sub b?

093 CARLSON: Not exactly. The agreement on the SAFECO amendments would essentially delete significant portions of section b. Delete lines 24 through 26. On line 28 after the word claim, insert "which would have been compensable under chapter 656". This change addresses Gunnel's concerns.

On line 29 after words medical service providers, delete "and health insurance providers". Do that again on lines 32 and 35. This affect, again, is to pull health insurers, at their request, out of the bill.

145 REP. WATT: Essentially then we've added in notification to the health insurance provider and deleted reference to health insurance providers in the rest of the bill so that no payments will be made. Give me the reason for this again?

152 DUNHILL: We considered in 1990 using non-compensable worker compensation medical dollars to pay for health insurance. The medical portion of the worker's compensation dollar is so much more expensive than health insurance that it seems to unnecessarily raise the cost of worker's compensation.

165 REP. WATT: To the health insurer?

166 DUNHILL: And to the employer paying the bill. Another point is that the employer has already paid his health insurance. This way the employer is not paying twice.

172 REP. WATT: Until we receive a fiscal impact statement this committee can not work further.

PUBLIC HEARING ON HB 'S 2842 AND 3136 **INVITED TESTIMONY ONLY**

201 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Introduces HB 2842 to the committee and explains provisions of the bill which would transfer the administration of prevailing wage rate from the Commissioner of Bureau of Labor and Industries to the Construction Contractors Board (EXHIBIT C).

HB 3136 Would repeal the Little Davis-Bacon Act (EXHIBIT D).

203 REPRESENTATIVE GENE DERFLER, SALEM: Testifies in favor of HB

2842. Maintains that market wage surveys would be helpful in place of the higher prevailing wage figures. The question is what is fair to the public? Even a small sample survey at OSU showed the Davis-Bacon Act increased the average construction costs in rural areas of public non-residential costs from 26 to 38%.

250 REP. WATT: You refer to an OSU study. What was it and when was it done?

255 REP. DERFLER: The study was done by the OSU Department of Economics in 1982.

261 REP. TIERNAN: How are wages determined for a hypothetical public works project in a rural area such as Fossil?

282 DAN O'BRIEN, PORTLAND CONSTRUCTION COMPANY: Currently surveys are done in the area to determine the prevailing wages associated with a specific district in the nine regions of the state. There have not been any surveys recently, however, so the rate is determined by a presentation by the local labor union.

HB 2842 would take contractor rates from that area, from those that actually do the work there. On an annual basis contractors resubmit their license application to the Contractors Board. The board would use an average of those rates designated by area.

On an individual project, labor costs are 30-40 percent of total costs. With this bill, if the difference is ten percent between the two systems, then it is estimated that Oregon would save \$35 million dollars on public construction projects annually.

329 REPRESENTATIVE DERFLER: This bill is not an attempt to drive wages below the market. My opinion is that it is not fair to ask the public to pay wages that are consistently higher. It ought to be a competitive rate. 334 REP. TIERNAN: What are the savings? You're saving 35 million dollars? Do you know of any cities or local gov'ts that can't afford to build?

350 O'BRIEN: \$35 million dollars at an extrapolation of a 10% savings. I know through the media that school districts are hit very hard by not being able to afford to build what they need to.

360 REP. TIERNAN: What about the private sector model using a bid list? What would be the problem with this if all the contractors preregister and qualify to be able to do the work?

370 REP. DERFLER: Of the three models, I'd select the one here. I'm not interested in the lowest bidder, per se. I'm interested in a competitive market wage. You should not have to pay more just because it is a public building.

373 REP. WATT: Undertaking a market wage survey is costly and time consuming?

383 REP. DERFLER: I'm not sure what the cost actually is but that is what we have been continually told by BOLI.

TAPE 134, SIDE A

003 REP. TIERNAN: How can it be so difficult or expensive to

ascertain this information?

010 O'BRIEN: As I understand it there are 33,000 contractors registered in this state. 23,000 are single independent contractors. This leaves 8-10,000 contractors that would need to be surveyed by this process. It is a tremendous burden estimated to cost between \$350-\$500,000. However, we estimate the savings would be dramatic and quickly recovered.

029 BETSY BAILEY, ASSOCIATED OREGON INDUSTRIES: Testifies in favor of HB 3136. Testimony summarized in EXHIBIT E.

091 COMMISSIONER MARY WENDY ROBERTS, BOLI & PAUL TIFFANY, BOLI WAGE & HOUR DIVISION: Testifies in opposition to HB 3136. Testimony summarized in EXHIBIT F.

126 REP. WATT: What's the General Fund funding level for the last biennium?

124 ROBERTS: The prevailing wage rate is only one of the laws that the Bureau enforces with General Fund monies. It is in with minimum wage, overtime, child-labor, all of the enforcement areas.

126 REP. WATT: Do you have it broken out in your budget?

126 ROBERTS: No.

127 REP. WATT: So what is the total number?

128 ROBERTS: We have only thirteen people enforcing all the laws. There are not enough people to split up but the estimated dollar amount could be figured if you wish.

132 REP. WATT: I would like to know the total of the Department and what you believe the break out for this program is. One of the questions will we come to is the market wage survey and its costs.

174 REP. TIERNAN: Can you give me an example of where a collective bargaining agreement covers most of the workers in a single profession in an area?

182 ROBERTS: I would be glad to give you a book. An example here might be electricians who are also licensed. There is information available on how many there are and what their wages are.

186 REP. TIERNAN: I will read that information but am not aware of any trade in a major area that can say it represents a majority of the workers in that profession. Are you telling me that in the Portland area most electrical workers are subject to a labor agreement?

190 TIFFANY: The Federal US Dept. of Labor has surveys that indicate in heavy highway and commercial construction, the area where most public works contracting is conducted, the rate that prevails are those that are paid to union covered workers. This is different for housing construction, residential or other light construction.

211 ROBERTS: This must be determined using like kind projects. And this was determined at the Federal level under the previous administration.

222 REP. TIERNAN: The Federal Davis Bacon covers federal projects. The state Davis Bacon covers state projects. It is your job to go out and determine what the prevailing wage is for the STATE.

237 ROBERTS: The first thing the law tells me to do is to look at the Federal rates.

238 REP. TIERNAN: You look at the Federal rates as indicative of what the prevailing wage rate is, but it does not tell you to assume that rate.

232 TIFFANY: The methods for determining the prevailing wage are contained in statute. One step is to look at those rates already in place. Over the years we've taken this information because it is not duplicative and is less expensive. It probably gives us the same results as a survey would given that the two statutes are so similar.

257 REP. TIERNAN: The Federal Davis Bacon Act is controversial and applying it to Oregon is not responsible management of BOLI. I understand what you've been saying, but it is not proper administration for determining a true prevailing wage rate in this state. You've got to look at more than simply punting to the Feds or using them as an excuse.

289 COMMISSIONER ROBERTS: Responds that surveys could be undertaken by the department if funds were allocated.

315 REP. WATT: What would you anticipate the cost of a market wage survey to be? How many FTEs and how much time.

321 TIFFANY: We submitted three sessions ago an estimated budget for surveying the trade and occupations under the Davis Bacon that would cost approximately \$250,000 for the biennium. I believe that included one research analyst and some clerical assistance.

342 REP. WATT: We do understand that you can not do what you do not have the resources to accomplish. I am not anxious to mandate something to your department without the appropriate funding level for you to accomplish the task.

344 REP. TIERNAN: How many people do work for you?

350 ROBERTS: About 150 people, less staff than I had 14 years ago.

TAPE 133, SIDE B

003 ROBERTS: Continues testimony summarized in Exhibit F. Points out a technical problem in the bill. A contradiction occurs when CCB is given direction to, if unable to compute an average wage due to insufficient or unavailable data, adopt the Department of Labor rates. This is exactly what is done now.

050 REP. TIERNAN: Explain that again.

054 TIFFANY: If you can not get sufficient data in each trade or occupation by area, you go to USDOL rates. These are not computed on an average but on the majority.

067 ROBERTS: Continues and summarizes testimony.

086 GREG TEEPLE, OREGON STATE BUILDING AND CONSTRUCTION TRADES

COUNCIL: Speaks in opposition to HB 3136 and HB 2842. Testimony summarized in EXHIBIT G.

212 REP. WATT: What is the percentage of employees in Oregon that are represented by labor unions?

219 IRV FLETCHER, AFL-CIO: Generally 18-20 percent generally, I don't know of the construction trade specifically.

237 REP. WATT: What percent of tax paying Oregonians are you representing?

246 WALLY MERNS, COLUMBIA COUNCIL BUSINESS COUNCIL: Specifies numbers of members in different professions.

287 REP. TIERNAN: You oppose HB 2842. Why? What does it have to do with the prevailing wage? It is going to shift the responsibility from BOLI to the Construction Contractors Board of the administration of prevailing wage statutes.

300 TEEPLE: This is like asking the fox to watch the chickens.

322 IRV FLETCHER, OREGON AFL-CIO: Testifies in opposition to both HB 3136 and HB 2842. Testimony is summarized in EXHIBIT H.

TAPE 134, SIDE B

005 WALLY MERNS, COLUMBIA COUNCIL BUSINESS COUNCIL: Testifies in opposition to HB 3136 and HB 2842. Submits three report surveys entered as EXHIBITS I, J and K.

046 TEEPLE: Purviews surveys with committee. Starting with the one entitled, "High Wage vs. Real Costs"...

080 REP. TIERNAN: Wouldn't you agree that a wage study reporting a dollar increase would ultimately increase the total costs? And vice versa?

091 TEEPLE: One would think so, but at what point will workers refuse to work for a lower wage?

111 MERNNS: A concern is the fact that out-of-state contractors will absolutely come to work in this area for even 30 percent less than what resident contractors earn. And those dollars will be spent in their own state, not ours. And then the wages they are earning here, significantly repressed ones, will skew any surveys taken here.

150 CHUCK ADAMS, ASSOC. OF BUILDERS AND CONTRACTORS: Testifies in favor of HB 3136. Testimony is summarized in EXHIBIT L.

180 HAWK AU, GRAY-PURCELL: Testifies in favor of HB 3136. Testimony summarized in EXHIBIT M. Speaks of pending federal legislation and gives a case study of the Woodburn School District. Gives examples of current job bid practices at Gray-Purcell Inc.

266 REP. TIERNAN: When we are talking wages, you really mean to include benefits too, right?

255 AU: Yes, benefits are included.

267 REP. TIERNAN: Can you give us an idea of what the discrepancies are?

269 AU: On page 3 (of exhibit m) you'll see a comparison list by trade.

276 REP. TIERNAN: How did you get the non-union rates?

277 DAVE ROEWE, ASSOC. BUILDERS AND CONTRACTORS: We administer five of the open shop apprenticeship programs. BOLI mandates that a wage survey be done every six months

285 REP. TIERNAN: So BOLI does have this information, as far as non-union numbers go. So \$15.02 is the Davis-Bacon rate and \$12.60 is, without fringes, your non-union rate. Does BOLI have these numbers?

292 ROEWE: BOLI determines those numbers. According to code, the Dept. of Employment and SAIF have figures also. The numbers are here, they are just done by different agencies. I guess the agencies don't share this information.

304 ROEWE, ABC CONTRACTORS: Speaks in favor of HB 3136.

326 REP. WATT: How long has your company been in business?

326 ROEWE: Since 1941. In Portland since 1971.

327 REP. WATT: Is that a specific contractor?

329 ROEWE: ABC is a trade association.

329 REP. WATT: I'm interested in the contractors you represent.

330 ROEWE: They are contractors - general, electrical,... 330 REP. WATT: Are they from Oregon? Are they local?

331 ROEWE: We represent the entire state of Oregon and the third congressional district of SW Washington. Continues testimony summarized in EXHIBIT N.

427 REP. WATT: With regard to your comparisons, within the non-union shops, these people who go through the apprenticeships, do they qualify for journeyman status as well?

429 ROEWE: Yes, they do.

430 REP. WATT: Isn't it true that in order to qualify for journeyman status you have to go through the apprenticeship program?

436 ROEWE: It takes four years in most cases. It is very competitive. You must go to college.

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002 REP. WATT: It is like the unions then. Do you believe it is fair to describe the union people as higher skilled laborers?

012 ROEWE: No. Many of our associates are, in fact, former union employees. The minimum wage workers that Commissioner Roberts mentioned flooding to Oregon to take over jobs, well the state already has a

program of pre-qualifying contractors to bid their state work.

033 MIKE OVERFIELD, TUALATIN ELECTRIC: Testifies in favor of HB 3136 and enters examples of cost comparisons entered as EXHIBIT O.

10:35 MEETING ADJOURNED

Submitted by,

Reviewed by,

Kristina McNitt,
Clerk

Marilyn Johnston, Committee
Committee

Administrator

EXHIBIT LOG

A - HB 3636 preliminary staff measure summary, fiscal and revenue impact statements submitted by staff, pp. 2. B - HB 3111 preliminary staff measure summary, fiscal an revenue impact statements, -1 LC and electronically engrossed amendments submitted by staff, pp. 7.

C - HB 2842 preliminary staff measure summary, fiscal and revenue impact statements submitted by staff, pp. 3.

D - HB 3136 preliminary staff measure summary, revenue impact statement, misc. relevant copies of statutes, submitted by staff, pp. 7.

E - HB 3136 written testimony presented by Bailey, pp. 4.

F - HB 3136 written testimony presented by Roberts, 2 tri-fold pamphlets and a copy of the prevailing wage rates for public works, pp. 24.

G - HB 3136 written testimony presented by Teeple, pp. 7.

H - HB 3136 written testimony presented by Fletcher, pp. 2.

I - HB 3136 high wage vs. real cost analysis report submitted by Teeple, pp. 19.

J - HB 3136 prevailing wage laws and construction costs, a rebuttal report submitted by Teeple, pp. 19.

K - HB 3136 study of Massachusetts prevailing wage law submitted by Teeple, pp. 18.

L - HB 3136 written testimony presented by Adams, pp. 6.

M - HB 3136 written testimony presented by Au, pp. 7.

N - HB 3136 written testimony presented by Roewe, pp. 10.

O - HB 3136 cost comparison submitted by Overfield, pp. 1.