

SENATE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS

April 30, 1993 Hearing Room B 8:00 A.M. Tapes 111 - 113

MEMBERS PRESENT: Senator Tricia Smith, Chair Senator Karsten Rasmussen,
Vice Chair Senator Brady Adams Senator Wes Cooley Senator Dick Springer

VISITING MEMBER: Senator Grattan Kerans, District 20

STAFF PRESENT: Joan Van Almen, Committee Counsel Stephanie
Holmes, Committee Research Stasi Kitchen, Committee Assistant Pamela
Stefani, Committee Clerk

MEASURES CONSIDERED: SB 37 - Public Hearing SR1 - Public
Hearing SB 551 - Public Hearing & Work Session SB 381 - Public Hearing &
Work Session SB 403 - Work Session

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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 111, SIDE A

006 CHAIR SMITH calls the meeting to order at 8:20 a.m. and opens a
public hearing on SB 37.

SB 37 - PUBLIC HEARING

Witnesses: Marilyn Coffel, Bureau of Labor & Industries Mike Kaiel,
Bureau of Labor & Industries Paul Tiffany, Bureau of Labor & Industries
Lisa Trussell, Oregon Food Processors Council Julie Brandis, Associated
Oregon Industries and AOI Retail Council Mike McCallum, Oregon
Restaurant Association Bridget Flanagan, Safeway Kay Juran, Association
of Oregon Food Industries Michael Roth, Roth's IGA

010 MARILYN COFFEL, Director, Intergovernmental Relations, Bureau of
Labor & Industries, introduces Mike Kaiel and Paul Tiffany and testifies
in support of SB 37 giving a history of child labor laws and citing
violations.

095 MIKE KAIEL, Deputy Commissioner, Bureau of Labor & Industries,
submits a prepared statement and testifies in support of SB 37 (EXHIBIT
A).

150 SENATOR ADAMS: Why are you pursuing this bill if you are assured
you have the funds?

153 MR. KAIEL: There are no assurances, we don't have the budget
yet. The House Appropriations Committee is looking for the fees to be
generated, if possible, so they can save those General Fund dollars for
something

else.

Discussion is held on the use of fees for enforcement, relief for the General Fund, equity and who pays fees.

268 CHAIR SMITH: How many employers are there in the state?

269 PAUL TIFFANY, Administrator, Wage & Hour Division, Bureau of Labor & Industries: We estimate there are anywhere from 5,000 to 7,000 employers in the data base for employment of minors. Under this bill, each year

an employer would pay a fee of \$9 per employment certificate for up to 30 minors in a year.

283 CHAIR SMITH: Can you tell us what BOLI is going to do with the \$9.00

per child?

287 MR. KAIEL: That pays for the staffing of the work permit unit. It includes part of a supervisor's time and two full-time clerical positions plus a part-time accountant position to handle the money that is generated. It would also include services and supplies--printing, etc.

295 CHAIR SMITH: Would it include investigators?

296 MR. KAIEL: No. It is funded through the General Fund.

363 MR. TIFFANY gives a section-by-section analysis of SB 37 and explains

how BOLI operates the program.

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010 SEN. COOLEY: Are you saying you have to monitor one group more than

another, and if so, I do not understand why?

020 MR. TIFFANY: The reasoning behind that is pursuant to the grant of federal money for youth employment programs during the summer time. There is a raft of rules and regulations issued by the U. S. Department of Labor. There are a lot of things their contractors have to comply with and be aware of and they have special training for their supervisors. The same is true for many public employers. there are a lot of safeguards built into the system that aren't there in a regular employment situation.

038 MR. TIFFANY continues his section-by-section review.

079 SEN. ADAMS: Line 7 refers to rules adopted pursuant to the employment certificates issued. What are those rules? 082 MR. TIFFANY: ORS 653.307 is the statutory authority for the Wage & Hour Commission to adopt the work permit and employment certificate system.

100 MR. TIFFANY clarifies the work permit process.

150 LISA TRUSSELL, Human Resource Manager, NORPAC Foods, and representing

the Oregon Food Processors Council, submits and paraphrases a prepared statement in opposition to SB 37. (EXHIBIT B)

190 JULIE BRANDIS, Associated Oregon Industries, submits and summarizes testimony in opposition to SB 37 (EXHIBIT C).

Discussion continues on use of fees and who should pay the fees.

256 SEN. ADAMS: Does BOLI plan to change the rules this biennium?

261 MR. TIFFANY: We have clear instructions to leave the system as it is

for at least this biennium.

268 MS. BRANDIS adds that her testimony was based on the proposed rules.

270 CHAIR SMITH: How do you think AOI feels about changing the way the program is funded from the General Fund to a fee based program where those who are regulated pay for that regulation?

274 MS. BRANDIS: AOI and its Retail Council are completely opposed to the fee as it is drafted now and probably opposed to the fee as the rules are drafted now. We would rather see something that would be an employment plan, i.e. I hire minors every year and this is about how many I hire and this is the type of work that they do. I think that is a better program and I think we need to see more pro-active attempts by BOLI to educate employers about what the rules and laws are.

300 CHAIR SMITH: Wouldn't you say that the regulation is important & employers have the benefits of hiring minors.

319 MS. BRANDIS: Yes, employers do have a benefit when they hire minors.

They are great employees. But the minor receives benefits too. I think the employer certificate is certainly an over-burdensome program and that is why I propose an annual plan.

332 MIKE MCCALLUM, Director, Government Relations, Oregon Restaurant Association: The program we are funding through these fees is not the enforcement program. We don't feel this paperwork shuffle is a protection to the minor or the employer or is much good for anything.

We think the current employer permit program as it exists today does not serve a worthwhile purpose. We think we should fund the enforcement division of BOLI; the work permit process is not a program we think is worthy of funding.

TAPE 111, SIDE B

006 BRIDGET FLANAGAN, Public Affairs Manager, Safeway, Inc., submits and reads a prepared statement in opposition to SB 37 (EXHIBIT E).

086 KAY JURAN, Director, Government Affairs, Association of Oregon Food Industries, submits a prepared statement and testifies in opposition to SB 37 (EXHIBIT F).

100 MICHAEL ROTH, Operations Manager, ROTH'S INC. reads a prepared statement in opposition to SB 37 (copy not available).

145 CHAIR SMITH closes the public hearing on SB 37 and opens a public hearing on SR1.

(Tape 111, Side B) SR1 - PUBLIC HEARING

Witness: Jim Griffith, Task Force on Building Inspections and Permits by Local Governments

178 JIM GRIFFITH, Chair, Task Force on Building Inspections and Permits by Local Governments: The task force originally was started under the Governor's Task Force for Governmental Operations under Governor Goldschmidt in the city of Portland. The recommendation from the task

force was that the function of the Building Inspections and Permits Subcommittee be continued and Senator Otto recommended that it be shifted to the Senate Interim Committee on Governmental Operations. That committee expanded the role under the premise that if it is good for Multnomah, Washington and Clackamas counties, it would be good for

the state. The task force reported to the Senate interim committee last December 10 and were directed with a number of questions. The report (EXHIBIT G) we have submitted today responds to the majority of those questions. One of the issues is in SB 293. The primary functions of the original committee are basically completed.

212 CHAIR SMITH: Why do you want to continue if you have accomplished your goal?

214 MR. GRIFFITH: The recommendation on SR1 is that we self-destruct on

June 30 this year. However, we have received information through Fiscal report that the committee continue through 1995.

234 CHAIR SMITH: Is there a sunset on the original language?

234 MR. GRIFFITH: The attempt of the task force membership is that we self destruct June 30.

236 CHAIR SMITH: Do we need this bill to cause that to happen?

236 MR. GRIFFITH: I am not sure. I thought we were here to discuss SB 293 .

253 CHAIR SMITH closes the public hearing on SR1 and opens a public hearing on SB 551.

(Tape 111, Side B) SB 551 - PUBLIC HEARING

Witnesses: Sue Jordan, Bureau of Labor & Industries Representative of Multi-City Housing Council

263 SUE JORDAN, Deputy Administrator, Civil Rights Division, Bureau of Labor and Industries, testifies in support of SB 551 because reports are received where people have lost their job or are not hired due to poor

credit ratings.

Discussion is held on the relationship of a person's credit rating to the type of employment.

306 SEN. ADAMS comments that the purpose of SB 551 is not to prohibit the

employer from making that decision; it is simply to say to the potential employee that, 'I will order a credit report' or just tell the credit reporting agency that I don't want any information regarding age, marital status or dependents.

316 MS. JORDAN: That is correct, but we want to bring this to your attention that the problem does come up.

327 SEN. RASMUSSEN: The language, in line 7 says "or." Was it your intent that it be "or" or "and."

329 MS. JORDAN: We did not draft this bill.

330 SEN. RASMUSSEN: I would want notice to the perspective employee so that person can pro-actively say what they will find and explain it.

335 CHAIR SMITH: Would you want line 7 to be "and?"

335 MS. JORDAN: Yes.

340 SEN. ADAMS: I like "or."

346 SEN. RASMUSSEN: I agree with Senator Adams. I think it is appropriate to allow employers to ask for this information. But I think it is extremely important that the perspective employee knows the information is being requested. That is why, in my mind, it has to be "and" and not "or."

351 A REPRESENTATIVE OF THE MULTI-CITY HOUSING COUNCIL states their organization has many employees on whom they run credit checks because they handle large volumes of cash and if they have credit problems, we have learned over the years that they have a propensity to try to create double bookkeeping systems to solve their cash flow problems. There is something on the books now on the federal level that requires us to notify the credit check companies when we are doing an employment check.

369 SEN. COOLEY: Does the credit bureau exclude the age, etc.?

370 MULTI-CITY HOUSING COUNCIL REPRESENTATIVE: When we ask for the employment check, that information has come off.

420 CHAIR SMITH: Sen. Kerans, we have a proposed amendment on line 7, to

change the "or" to "and."

425 SENATOR GRATTAN KERANS does not oppose the proposed amendment.

442 CHAIR SMITH closes the public hearing and opens a work session on SB 551.

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SB 551 - WORK SESSION

014 MOTION: CHAIR SMITH moves that SB 551 be amended on line 7: before the ";" add, "that the employer uses credit reports as an employment screening device, and".

017 VOTE: CHAIR SMITH, hearing no objection to the motion, declares the motion PASSED. All members are present.

017 MOTION: CHAIR SMITH moves that SB 551, as amended, be sent to the Floor with a DO PASS recommendation.

019 VOTE: In a roll call vote, ALL MEMBERS ARE PRESENT and vote AYE.

022 CHAIR SMITH declares the motion PASSED. SEN. COOLEY will lead discussion on the Floor.

(Tape 112, Side B) SB 381 - PUBLIC HEARING & WORK SESSION

Witness: Larry Niswender, Department of Insurance and Finance

028 MS. VAN ALMEN explains that the committee did move SB 381 out of committee, and when Legislative Counsel changed the language, he thought he was clarifying the intent of the committee. The language in the SB

381-1 amendment said "information to be released." That language generated a fiscal impact of a sizable amount. The language in the -2

amendment was changed to state "all medical information obtained" rather than "to be released". It was Mr. Niswender's opinion that the first change was not voted out by the committee, and the substantive change was going to work a fiscal change. It did, and in the -2 Fiscal Statement is now revised to reflect less money.

In further discussions with Legislative Counsel, we decided that the changes in the second part of the wording was still a substantive change from what the committee voted on. I asked that he go back to the original language as drafted by Sen. Rasmussen with a slight change. So the -3 amendments say, "through the use of a medical release form prescribed by the director." This is the reason for bringing it back to the committee. I had the understanding this committee intended to get

at all medical release forms used by the insurance company and the

language as drafted doesn't do that.

083 CHAIR SMITH advises the committee they need to make a minor deletion to broaden it to include everybody's forms and deal with the fiscal impact.

091 SEN. RASMUSSEN: I started specifically with the language at the beginning, "all medical information obtained," not "to be released" because that has already occurred. Legislative Counsel thought we intended something different. I think that added to the confusion in the Fiscal Statement. As it works now, if there are disputes regarding discovery of medical evidence, it works the way this says from lines 4-8. It works basically informally. If two lawyers are in dispute, the referee gets on the phone and you are told what to do. People in the director's office serve in that role informally now as well, although less frequently than the Hearings Division. It is not my view that this is going to substantially change the way things happen. It was my intent in drafting this to simply put in the statutes that is how it will be done. It is my view that this is how it is already done. Therefore, I don't think it is going to have a very large fiscal impact.

115 CHAIR SMITH comments the -3 Fiscal Impact is not ready but it will reflect the same as the -2 and asks why they feel they would need to hire 57 people.

120 LARRY NISWENDER, Medical Issues Coordinator, Workers' Compensation Division, Department of Insurance and Finance: The fiscal impact reflects an estimate of 47.27 staff in direct response to our understanding of the impact the language, "to be released" would be.

140 CHAIR SMITH: The bill says that injury report forms cannot require injured workers to disclose medical information that is irrelevant to the case. The -3 amendments say you have to provide the medical information to the worker that you provide to the insurance company.

142 MR. Niswender: That is correct.

143 CHAIR SMITH: Why does that require 2.6 people and \$206,000?

144 MR. Niswender: The estimate for the -2 and -3 amendments was based on the fact that there are still a large volume of records out there that

are provided to the injured worker and there are parties that could dispute whether the information contained in that record was related to the claim.

151 CHAIR SMITH: How many people are you estimating will dispute the record?

152 MR. Niswender: Our estimate is basically one percent of all claims or aggravations, about 1,100 a year.

183 CHAIR SMITH: I would like to delete the language, "prescribed by the

director" in the -3 amendments and send the bill to Ways and Means and suggest in a letter you can do this the same way you are doing it now

and that Ways and Means not appropriate \$200,000 to do this.

195 MOTION: SEN. RASMUSSEN moves that the SB 381-2 amendments as written BE ADOPTED.

212 CHAIR SMITH asks that someone explain the difference between the -2 and -3 amendments.

212 SEN. RASMUSSEN: The difference exactly is line 5 where the word "obtained" in the -3 amendments is "to be released" in the -2 amendments. The intent in my drafting them was to deal with slightly different situations.

241 VOTE: CHAIR SMITH, hearing no objection to the motion, declares the motion PASSED. All members are present.

264 MOTION: SEN. RASMUSSEN moves that SB 381, as amended, be sent to the Floor with a DO PASS recommendation.

266 VOTE: In a roll call vote, all members are present and vote AYE.

271 CHAIR SMITH declares the motion PASSED. SEN. RASMUSSEN will lead discussion on the Floor.

272 CHAIR SMITH opens a work session on SB 403.

(Tape 112, Side B SB 403 - WORK SESSION)

Witnesses: Senator Hamby, District 5 Brenda Short, Association of Oregon Faculty Fred McDonnal, Public Employes' Retirement System Vickie Totten, Oregon School Boards Association Don Satchell, Oregon Education Association Pat West, Oregon State Firefighters Association Bob Andrews, Public Employes' Retirement System

275 MS. VAN ALMEN reviews materials provided to the committee: > proposed amendments SB 403-1, 403-2 and hand-engrossed bills containing the amendments

318 SENATOR J. HAMBY, District 5, explains that SB 403 gives a bronze handshake to a school district to allow the higher paid a one-time window of opportunity, a burned-out school teacher, to not complete their full 25 years of employment, but to opt out following 20. > the -1 amendments were proposed by the Department of Higher Education and would have a significant fiscal impact. Objects to the -1 amendments. > the -2 amendments speak to classroom teachers only. That was the original requestor's desire. Because of the impact on classroom teachers today under Measure 5, a teacher such as the requestor, currently sits at a \$45,000 salary. If he could opt out early because

he is burned out, the school district could hire two new teachers at \$22,000. I solidly support the -2 amendments.

> the -3 amendment allows it to be optional; school boards can decide how much money it will cost them and what the handshake might look like. > the -4 amendments apply not only to the classroom teachers, but administrators, not classified employees. I had this drafted at the request of a number of administrators. However, the committee should be aware that many of the management slots of principles or assistant

vice-principles are being cut under Measure 5. The decision is whether you want to impact administrative costs because it will rise. > the -2 amendments would cost \$666,000 to PERS. If you add administrators as in the -4 amendments, you can drop a \$750,000 cost.

Those are the estimates by PERS. > the -5 amendments have been submitted by Sen. Cohen. It lowers from

25 years to 23 years of service. It also addresses the out-of-state buy as a possibility. That means a teacher who may have taught two years in Washington, moved to Oregon and taught. Today we would not recognize the two years taught in Washington because there is no reciprocity under PERS. > the -6 amendments have been submitted by OPEU. The -6 amendments would extend the provision to all public employees. > the -7 amendments was drafted because of a concern by some superintendents that they had already given pink slips under Measure 5. That amendment is drafted to clarify that the bill would not apply to anyone who has of today received a pink slip.

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021 CHAIR SMITH: Then, this would apply to teachers who are getting laid

off next year.

022 SEN. HAMBY: That is true unless you were to add something. The -7 amendments speak only to administrators. > a conceptual amendment would include fire and police

052 BRENDA SHORT, Public Affairs Council, representing Association of Oregon Faculties: We did submit the -1 amendments to include higher ed faculty.

057 CHAIR SMITH: The -2 amendments apply to teachers only. Is there a \$666,000 fiscal impact?

060 FRED MCDONNAL, Director, Public Employees' Retirement System: Yes; it is a biennial number.

064 CHAIR SMITH asks OSB A why they feel this should be voluntary in the -3 amendment.

066 VICKIE TOTTEN, Oregon School Boards Association: I have not previously heard of the -3 amendments and cannot comment.

079 DON SATCHELL, Oregon Education Association: Mary Anne Gest, OPEU, called this morning because she is ill, but there is a consensus of those people covered that support the idea to include all qualified individuals. We request that on line 10, after "after" the words "December 31, 1993" be deleted and insert "the date of this Act" so it

would not apply to teachers and other employees that were laid off this September. Part of the savings is unemployment compensation that will

apply to all workers--cities, counties, state, etc. A discussion is held on benefits to individuals and financial benefits

to employers.

188 PAT WEST, Oregon State Firefighters Council: The -6 amendments include firefighters, but the conceptual amendments have a provision that is specific to the exempt plans, such as the Portland Firefighters under the equal-to-or-better-than laws of PERS, but are not members of PERS.

249 SEN. SPRINGER: I support the -6 amendment. I understand there may be an addition to the -6 regarding the effective date and who may be brought in.

258 BOB ANDREWS, Legislative Liaison, Public Employes' Retirement System:

Mr. Satchell was suggesting that on line 10 of the -6 amendment, after the word "is" we would put "on, or" and delete "December 31, 1993" and insert "the effective date of this Act." It establishes the window of opportunity, but before July 2, 1994.

267 CHAIR SMITH: Do you think that would change the fiscal impact significantly by allowing those getting pink slips to retire rather than get laid off.

268 MR. ANDREWS: Yes.

270 MOTION: SEN. SPRINGER moves that the SB 403-6 amendments, amended as described by Mr. Andrews and Mr. Satchell, BE ADOPTED.

278 VOTE: In a roll call vote, SENS. RASMUSSEN, SPRINGER and CHAIR

SMITH vote AYE. SENS. ADAMS and COOLEY vote NO.

CHAIR SMITH declares the motion PASSED.

285 MOTION: SEN. SPRINGER moves that SB 403, as amended, be sent to the Floor with a DO PASS recommendation.

288 VOTE: In a roll call vote SENS. RASMUSSEN, SPRINGER and CHAIR SMITH vote AYE. SENS. ADAMS and COOLEY vote NO.

290 CHAIR SMITH declares the motion PASSED. CHAIR SMITH will lead discussion on the Floor.

292 CHAIR SMITH declares the meeting adjourned at 10:20 a.m.

Transcribed and submitted by,

Annetta Mullins Committee Assistant

EXHIBIT SUMMARY

A - SB 37, prepared statement, Mike Kaiel, 6 pp B - SB 37, prepared statement, Lisa Trussell, 2 pp C - SB 37, prepared statement and

correspondence, Julie Brandis, 17 pp D - NOT USED E - SB 37,
prepared statement, Bridget Flanagan, 2 pp F - SB 37, prepared
statement, Kay Juran, 2 pp G - SR1, Taskforce on Building Inspections
and Permits by Local Government Report, Jim Griffith, 8 pp