

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.

Measures Heard HB 2151 (PUB)

HOUSE COMMITTEE ON LABOR

January 25, 1991Hearing Room D 8:30 a.m.Tapes 9 - 10

MEMBERS PRESENT:Rep. Gene Derfler, Chair Rep. Kevin Mannix, Vice-Chair Rep. Sam Dominy Rep. Jim Edmunson Rep. Rod Johnson Rep. Bob Repine Rep. John Watt

STAFF PRESENT: Victoria Dozler, Committee Administrator Johanna Klarin, Committee Assistant

WITNESSES: Bureau of Labor and Industries Mary Wendy Roberts, Commissioner Paul Tiffany, Administrator, Wage and Hour Division Quint RaHB erger, Administrator, Apprenticeship and Training

Division Raleigh Lewis, Administrator, Civil Rights Division Johnnie Bell, Administrator, Support Services Division HB 2151 Michael Ryan, Executive Assistant to the State Treasurer.

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TAPE 9, SIDE A

008 CHAIR DERFLER: Calls the meeting to order at 8:30 a.m.

INFORMATIONAL MEETING-OVERVIEW OF THE BUREAU OF LABOR AND INDUSTRIES (Exhibit A)

012 MARY WENDY ROBERTS, Commissioner, Bureau of Labor and Industries: Introduces her staff and gives a broad overview of the Bureau of Labor and Industries (Exhibit A).

>Commissioner's Office >Support Services >Civil Rights >Apprenticeship and Training >Wage and Hour

-States the Commission's mission: To advance the development of a highly skilled work force in Oregon through partnerships with government, labor, business and education, to protect individual rights to equal opportunity in employment, housing, public accommodation, and in vocational, professional and trade schools; to enforce state laws relating to wages, hours, terms and conditions of employment; to regulate certain industries to ensure quality and professional services, and to advocate policies that reconcile the demands of the work place with the needs of the family.

092 CHAIR DERFLER: Other than taking the license fee, what do you do for licenses?

092 MS. ROBERTS: In some cases there are tests or a bonding requirement. We provide service to that industry in terms of keeping the playing field level. One of our most enthusiastic group of supporters at the last two budget sessions were the folks from the consumer electronic industry. (Provides an example of the agency's enforcement activity).

109 CHAIR DERFLER: How did you handle that particular case? Did you receive complaints?

112 MS. ROBERTS: We responded to complaints and do our routine reviews and spot checks.

122 CHAIR DERFLER: How do you keep someone out of business who wasn't qualified?

123 MS. ROBERTS: To get licensed they have to satisfy certain requirements. We check credentials.

128 REP. WATT: Are other groups, such as automobile mechanics regulated by you?

MS. ROBERTS: No we don't have that responsibility.

REP. WATT: Are all the groups listed here?

MS. ROBERTS: Yes.

139 REP. REPINE: The testers in the market place who deal with discrimination issues with regard to housing; do they operate under your umbrella?

MS. ROBERTS: No.

REP. REPINE: Is that a grant or a federally funded operation right now?

147 RALEIGH LEWIS, Administrator, Civil Rights Division: That is through a grant from the State Legal League.

REP. REPINE: Is there another agency or organization that deals with that same issue? Shouldn't this be somewhere within your administration?

159 MS. ROBERTS: We cannot do very much about who the federal government gives a grant to.

168 CHAIR DERFLER: How did the consumer protection aspect evolve?

MS. ROBERTS: We used to have more licensing functions, but 1971 some of

them were transferred to Commerce and later were dispersed to various agencies. We got consumer electronics.

-Licensing is something that is not often connected to the Bureau of Labor and Industries.

-Addresses the issue of maintaining a legal labor force in agriculture.

230 REP. WATT: How does your agency feel about handling this issue?

232 MS. ROBERTS: We have been the lightning rod for this issue because we are out there and know what is going on. We have alerted people about potential problems. We provide information concerning this area to parties involved. We have bi-lingual and bi-cultural employees.

-Refers to the anticipated problems that are related to the increase in the number of migrant families, weather and crop problems in California.

278 REP. DOMINY: How have the significant changes affected the Bureau?

284 MS. ROBERTS: Introduces Paul Tiffany, Administrator, Wage and Hour Division, to address this question.

-Gives an overview of the Wage and Hour Division. (Exhibit A, page 22).

-The extensive changes in the law gave the Bureau new capabilities.

-Presently the Bureau has a staff of 11 dedicated to farm and forest labor enforcement.

324 PAUL TIFFANY: The hiring and training of these individuals (the staff) didn't start until September 1989.

-This is when the statutes became effective and funding was available.

-Changes in the statutes required extensive rule changes.

-He describes an outreach program targeted toward farmers and growers.

-An interagency agreement with OR-OSHA, required by the legislation, was negotiated and implemented and is now proceeding smoothly.

400 MS. ROBERTS: OR-OSHA is now more focused into this area than in the past.

TAPE 10, SIDE A

001 REP. MANNIX: Have you considered taking a proactive approach toward the "good actors"?

-Suggests setting standards for permanent housing units.

-Suggests asking local communities to come up with sites for this kind of housing.

021 MS. ROBERTS: A farm worker housing study was made in 1985. We have been working with various agencies on the initiatives that came out of this study. We don't have the authority to implement this.

-We supported a bill that would have allowed credits for people who wanted to build housing.

-Supports construction of good farm worker housing.

039 REP. MANNIX: I would like to see a joint task force with all the involved agencies, and give it a specific authority to do something positive, proactive.

041 MS. ROBERTS: We have considered mobile units and perhaps leased units.

055 REP. REPINE: Oregon housing needs should be reassessed.

-Do we need to be concerned about possible increase in child labor since more and more migrant families are living in Oregon year round?

076 PAUL TIFFANY: Often times very young children are working.

083 MS. ROBERTS: There is an increased demand for schools and child care facilities.

097 REP. DOMINY: Could you summarize the violations that you mentioned earlier? What type of violations are they?

MS. ROBERTS: We can supply you the details.

104 PAUL TIFFANY: The largest bulk of the violations are in posting and record keeping requirements, notification disclosure statements, and minimum wages.

117 MS. ROBERTS: These are not just paper work violations, they are indicative of some major exploitative activities.

132 REP. DOMINY: Have you found many cases of actual fraud or deliberate deceit?

MS. ROBERTS: I would conclude that it is a significant amount.

146 PAUL TIFFANY: Gives an example of a minimum wage violation.

165 REP. MANNIX: Are you going to have recommendations to make the Oregon wage and hour standards more in conformance with the federal wage and hour standards?

PAUL TIFFANY: We have done that.

REP. MANNIX: Isn't four ten hours days a violation according to the Oregon standards even though it is a forty hour week--would you have to pay over-time?

PAUL TIFFANY: Some specific employee groups have a daily over-time requirement.

REP. MANNIX: Landscape contractors have complained to me.

PAUL TIFFANY: If they are in a contract with state or local government, then the over-time statute does kick in.

REP. MANNIX: Are there any proposals to amend the law?

PAUL TIFFANY: None that I know of.

REP. MANNIX: Do we have a separate Oregon formula to calculate the prevailing wage, or do we use the federal formula?

198 MS. ROBERTS: The Support Services Division, which has the research unit, publishes the prevailing wage rate and Wage and Hour Division enforces all the wage and hour laws.

203 PAUL TIFFANY: The statute allows the commissioner to adopt the U.S. Department of Labor rates, and we do that in most cases.

-Provides an example where the rates differ.

213 MS. ROBERTS: We have tried to bring more conformity with the federal rates.

238 PAUL TIFFANY: It takes a lot of staff time to keep up with the rate surveys every year.

MS. ROBERTS: We try to use data that is already available to keep the costs down.

246 CHAIR DERFLER: What changes do we need to make to match federal and state laws in the wage area?

PAUL TIFFANY: There are differences in the over-time calculations and exemptions. We have adopted the same over-time exemptions wherever possible.

MS. ROBERTS: We did this after the legislative bill was passed. We adopted some temporary rules that would keep the state and federal rules the same.

278 REP. MANNIX: Can you prepare a synopsis of the areas where we do have a difference with the federal government?

PAUL TIFFANY: I will send the information concerning statutory and procedural differences.

-Ms. Roberts and Mr. Tiffany further highlight specific differences with regard to over-time exemptions.

337 REP. DOMINY: Does the federal law address the number of hours in a day?

MR. TIFFANY: There are no absolute prohibitions over certain number of hours.

MS. ROBERTS: The over-time law originally was to stop over-time, the whole debate has changed.

371 REP. MANNIX: Part of the reasoning is probably benefits.

MS. ROBERTS: Exactly. The question is, do we want employers to hire more people or work people harder?

-There will be an increase in minimum wage across the country, because we are facing a shortage of skilled labor the in future.

-We cannot compete globally with a labor intensive industry that provides cheap labor.

-We need to aim for high skill/high wage strategy.

433 CHAIR DERFLER: I believe the people should have a choice if they want to work more than 40 hours. The government shouldn't be telling us what we want.

TAPE 9, SIDE B

002 MS. ROBERTS: I don't mean to imply that all over-time is bad.

-She discusses the lack of trained workers in the U.S.A.

-She discusses more realistic educational goals for middle and high schools.

- She continues her overview (Exhibit A, page 11) concerning apprenticeship and training programs and discusses the 175 apprenticeship committees in Oregon.

-She describes the history of apprenticeship programs in Oregon.

-She describes a typical apprenticeship program--length of time and starting salary, etc.

082 REP. MANNIX: Have you considered expanding on the concept of a "junior apprentice program"; working together with the Superintendent of Public Instruction?

MS. ROBERTS: I have been involved in this area for some time. I have been on a national panel concerning youth apprenticeship programs.

-She gives an example from Germany where 65% of youth go through an apprenticeship program.

112 REP. MANNIX: Are we talking to the Education Committee, the Board of Education and the Superintendent of Public Instruction? Do we have hands-on plans?

MS. ROBERTS: We have advocated a school-to-work transition system which involves this concept.

-She provides an example from the Roosevelt High School.

174 CHAIR DERFLER: We have another presentation in 15 minutes.

176 REP. EDMUNSON: How would you characterize the training the young people receive in those lower skill, entry level jobs?

183 MS. ROBERTS: It varies. Whether they are transferable long term is problematic.

-Education and training on the job need to be combined.

-Points out that the U.S. has the least well articulated school-to-work transition program in the world.

-The average starting age for apprenticeships in Oregon is 25.

-Employers need to address global competition.

-Women with families entering the work force need to be in these programs.

-She emphasizes the need to prepare for a multi-cultural labor force.

304 CHAIR DERFLER: We appreciate your input and nice presentation.

308 MS. ROBERTS: Introduces Raleigh Lewis, Administrator, Civil Rights Division.

326 RALEIGH LEWIS: We take in about 1,600-2,000 complaints per year.

-Provides statistical information with regard to Civil Rights Division.

339 CHAIR DERFLER: What kind of cases do you work with?

MR. LEWIS: They cover all of our jurisdictional area, the largest being employment discrimination and housing discrimination.

346 REP. WATT: Is the greater amount of cases indicative of more of a problem or more reporting?

MR. LEWIS: I am not sure about that.

362 MS. ROBERTS: Some forms of discrimination are increasing.

-She discusses the issue of sexual harassment.

-She discusses discrimination on the basis of a handicap which includes AIDS.

407 REP. MANNIX: Are breathlizer test requirements covered by discrimination statutes?

409 MS. ROBERTS: Yes.

REP. MANNIX: Are we revisiting the whole concept? Is there any consideration to pull this out of the discrimination statute?

MS. ROBERTS: Some of the requirements governing employer- employee relations have been placed in the civil rights statute. I suspect that any kind of drug test laws will also be placed within the Bureau.

TAPE 10, SIDE B

014 REP. MANNIX: We need to think about the breathlizer test in the context of work place safety.

027 MS. ROBERTS: Any drug test requirements will most likely be related to this agency.

036 REP. MANNIX: I am just pointing out a separate concept there.

MS. ROBERTS: There is more than one concept involved in an employer-employee relationship.

REP. MANNIX: Discusses the effect of smoking on health care costs.

048 MS. ROBERTS: Discusses the parental leave statute.

-We will introduce the family medical leave.

087 REP. JOHNSON: Are you proposing something like that this session?

MS. ROBERTS: Yes I am.

093 REP. REPINE: Please provide us information concerning your staff--names and phone numbers.

MS. ROBERTS: We'll do that.

PUBLIC HEARING, HB 2151

098 CHAIR DERFLER: Opens public hearing on HB 2151.

102 MICHAEL RYAN, Executive Assistant to the State Treasurer: Presents a status report on the working group that has been deliberating HB 2151.

-We are considering the inclusion of other than State deferred compensation providers. I don't see any outstanding conflicts.

130 REP. REPINE: Is this just an update?

136 CHAIR DERFLER: Yes.

140 CHAIR DERFLER: Adjourns the meeting at 10:15 a.m.

Submitted by:      Reviewed by:

Johanna Klarin      Victoria Dozler Assistant      Administrator

EXHIBIT LOG:

A            -            Overview Bureau of Labor and Industries - Mary Wendy Roberts -  
24 pages.