

House Committee on Labor March 8, 1991 - Page

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.

HOUSE COMMITTEE ON LABOR

March 8, 1991Hearing Room D 8:30 a.m.Tapes 55 - 57

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

MEASURES CONSIDERED: HB 2644 - Work Session HB 2539 - Work Session HB 2656 - Public Hearing HB 2657 - Public Hearing

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TAPE 55, SIDE A

003 CHAIR DERFLER: Calls the meeting to order at 8:31 A.M.

WORK SESSION, HB 2644

CHAIR DERFLER: Opens work session on HB 2644.

009 VICTORIA DOZLER: Explains why HB 2644 is back in the committee--the bill has a subsequent referral to the Ways and Means Committee.

020 MOTION: REP. REPINE: Moves that the Committee on Labor reconsiders HB 264 4.

The committee has no objections to the motion.

MOTION: REP. REPINE: Moves that HB 2644 be referred to the House floor with a "do pass" recommendation and with a subsequent referral to the Committee on Ways and Means.

VOTE: The motion carries 6-0.

EXCUSED: Rep. Edmunson.

CARRIER: Rep. Peter Courtney

WORK SESSION, HB 2539

CHAIR DERFLER: Opens work session on HB 2539.

039 VICTORIA DOZLER: Summarizes HB 2539.

050 MOTION: REP. MANNIX: Moves to adopt the HB 2539-1 amendments.

056 DOZLER: Describes the amendments.

068 REP. MANNIX: Refers to the letter from the Department of Finance and Insurance. These training programs are an over-bureaucratization of the workers' compensation system. Streamlining is the preferential way to go.

The committee has no objections to the motion.

087 MOTION: REP. MANNIX: Moves that HB 2539, as amended, be referred to the House floor with a "do pass" recommendation.

VOTE: The motion carries 7-0.

CARRIER: Rep. Derfler.

096 MOTION: REP. REPINE: Moves to suspend the committee rules to allow Rep. Edmunson to cast a vote with regard to HB 2644.

The committee has no objections to the motion.

Representative Edmunson votes AYE.

#### OVERVIEW - NATIONAL COUNCIL ON COMPENSATION INSURANCE (NCCI)

113 LEONARD TRAIMAN, Director, Government Consumer and Industry Affairs for the National Council on Compensation Insurance: Discusses the following issues currently impacting the Oregon workers' compensation program.

-Outlines the functions of NCCI. \* NCCI is the nation's largest workers' compensation rate advisory and statistical organization. \* Provides technical assistance and data collection services.

-Describes NCCI's members.

-We are a national organization and deeply involved in the Oregon workers' compensation program.

-In addition to our members we serve the whole workers' compensation community--legislators, employers, employees, academics, researchers, etc.

-NCCI administers the assigned risk plans and pools.

-Discusses the subsidies with regard to the workers' compensation rate levels across the country.

166 CHAIR DERFLER: What is the rate in Oregon?

TRAIMAN: It is 12% approximately.

-He discusses the unhealthy growth of subsidies.

-He describes the measures NCCI has proposed that will help the residual market to pay a larger share of its own cost.

-Discusses Oregon's recent 12.2% premium level decrease.

-Policy decisions made last year create optimism among those that are involved in delivering the benefits and paying the costs of the delivery system.

-Costs can be contained while providing adequate benefit levels, increasing work place safety and protecting workers' rights.

-Discusses the innovative concept of MCO's in Oregon.

-It is going to be years before we see the true impacts of the 1989 special session.

-We want to implement programs that will reduce the size of the residual market in Oregon.

-We like to see more carriers come to the state and pick up some of this business.

-Describes a newly implemented investigation unit to investigate applications received for workers' compensation coverage.

-He describes the Contractors Premium Adjustment Program.

336 REP. EDMUNSON: Please comment on the national effort to consolidate the workers' compensation coverage into a 24-hour model. Is NCCI monitoring this?

TRAIMAN: This is a difficult concept to implement. We are monitoring it. There needs to be a significant amount of study made concerning how it is going to be implemented.

382 REP. EDMUNSON: I am glad to know that NCCI is involved in that. I hope you could play a leading role in collecting the data and trying to get a handle on the cost shifting.

TRAIMAN: We will be studying this issue further.

408 CHAIR DERFLER: Where are we in the national ratings?

TRAIMAN: I don't have any information on that because of the recent changes. Oregon still has high costs.

CHAIR DERFLER: I think we are still in the top 25%.

TRAIMAN: Yes. When I said that Oregon is being looked upon as a model, I really mean as a model for change.

TAPE 56, SIDE A

-A model for potentially producing the cost containment.

012 CHAIR DERFLER: Even though we are heading to the right direction we

are still in the top percentage.

TRAIMAN: Yes that is a correct statement even though we don't have the exact figures.

CHAIR DERFLER: Why aren't we getting more carriers in?

TRAIMAN: This is a difficult thing to conceptualize.

-Discusses the difficulties and costs involved in administering the system.

-There is a lot of competition among the two major carriers in Oregon.

032 CHAIR DERFLER: Why are the administrative costs higher in Oregon than in other states?

TRAIMAN: Administering and paying claims involves an enormous amount of administrative costs.

CHAIR DERFLER: Why do you suggest that we have more people involved than other states?

TRAIMAN: Oregon has a significant number of administrative rules that cover the workers' compensation program.

CHAIR DERFLER: Should we look into that?

TRAIMAN: Yes somebody should survey insurance carriers and ask these questions, whether it is NCCI, your committee, or the Workers' Compensation Division.

CHAIR DERFLER: How do you regulate your costs since there is no competition in your business?

TRAIMAN: The costs are regulated by our members.

068 CHAIR DERFLER: What would be the percentage of those costs?

TRAIMAN: It is under one half of 1%.

CHAIR DERFLER: Do you help develop programs for other states?

TRAIMAN: Yes. NCCI has various working committees that are constantly researching and updating workers' compensation programs.

PUBLIC HEARING, HB 2656 (Exhibits A,B,C,D,E)

Witnesses:Karl Frederick, Associated Oregon Industries. Gary Pierson, The Gibbens Company Sharon Kidder, Employment Division Dick Van Pelt, Employment Division Steve Tegger, Employment Division Bernie Thurber, Oregon Legal Services Irv Fletcher, Oregon AFL-CIO Greg Teeple, Oregon state Building and Construction Trades Council Maria Keltner, Association of Oregon Counties and League of Oregon Cities

088 CHAIR DERFLER: Opens public hearing on HB 2656.

089 VICTORIA DOZLER: Describes the bill.

102 KARL FREDERICK, Vice President and Director of Legislation,

Associated Oregon Industries: Testifies in favor of the bill (Exhibit A). We are attempting to define good cause to mean only a cause which is objectively related to the individual's employment.

127 GARY PIERSON, The Gibbens Co.: Expresses his personal opinion of the issues relating to HB 2656. Provides examples of cases where people leave work for compelling personal reasons defined as good cause. These type of cases are not uncommon.

172 CHAIR DERFLER: Would you give me an example of a case that you would object to?

PIERSON: Reads a referee conclusion of a case where the employee returns to Africa to defend his family's landright. He provides an other example of a daughter whose mother had suffered an automobile accident.

227 REP. MANNIX: Gives an example from the other extreme of a woman who moved because of the fear that the rapist who was still at large would victimize her further. Since she moved she had to leave her work. Is there a way where we can predictably encompass all tough cases in either extreme and still be fair about it?

PIERSON: This is a judgment that you, the lawmakers, have to make.

REP. MANNIX: Isn't there another answer on the continued qualifications side? Refers to the examples above provided by Mr. Pierson.

PIERSON: These cases are extremes. As a consequence though much less compelling personal circumstances result in payment of benefits.

REP. MANNIX: I would like to hear more statistical information showing that we are not dealing with just a few aberrations.

PIERSON: I don't have that information.

274 FREDERICK: The policy issue is whether or not a person should receive benefits if they leave work for personal reasons unconnected with their work. You need to make a decision how far you want to expand. We could amend the law to accommodate some of the extreme situations.

292 REP. WATT: Describes a personal experience when he was transferred and the move required his wife to leave her job. Would this qualify as good cause?

FREDERICK: She would be disqualified.

317 REP. JOHNSON: When an employer loses an employee through one of these causes not related to work, there is a cost to the employer. Yet the statute says that if the reason was not related to work, the employer's account is not charged for that unemployment benefit cost. Could you elaborate on that?

FREDERICK: The system is still charged. The payment comes out from the unemployment insurance trust fund.

335 PIERSON: Most political subdivision employer entities utilize the direct reimbursing method of payment and they are not eligible for the relief of charge into that particular statute to which you referred.

350 REP. JOHNSON: Do you have any chart of how Oregon's unemployment rates paid by employers compare to other states?

FREDERICK: We are a high cost state when it comes to unemployment insurance.

372 REP. MANNIX: Dealing with these potentially marginal situations for qualification or disqualification, would a part of the answer be to be more aggressive monitoring the seek work requirement?

FREDERICK: Yes that would help.

Chair Derfler and Mr. Frederick discuss the policy issue as to whether employers should pay the costs involved or if people should pick up their own tabs and also if this should be at all the employers' responsibility.

417 SHARON KIDDER, Assistant Director for Programs, Employment Division: She introduces Dick Van Pelt, Supervisor of the Technical Unit. She notes that the Division's intent today is not to support or oppose this bill but simply provide the information that the committee needs to make the public policy decisions (Exhibit B).

-We hope to look at a system that will help to balance the care of workers with a good business climate for Oregon.

TAPE 55, SIDE B

007 REP. MANNIX: I have occasionally had complaints about the decisions that basically say that every dog gets one bite on the misconduct side. You can have misconduct connected with work, just an isolated instance of misjudgment; and all is forgiven, the firing is forgiven, in the sense of unemployment. That is the other side of the equation of someone who might be otherwise qualified. That is a sensitive point with me because I have seen some of those cases that were recited seemed to be fairly egregious, and it seemed to me that a bite that deep did not deserve another chance.

018 KIDDER: Outlines some of the common reasons for leaving work that are not disqualifying.

-It has always been the policy and law for there to be a determination of a good cause that has not been necessarily related to the work.

-If a person is disqualified for voluntarily leaving work without good cause, they are ineligible for benefits. If they get another job and work a period of time where they earn four times in excess of their weekly benefit amount and then are out of work due to no fault of their own, they could then come in, if it is within the period of their claim which is one year from the date they file it. They can reopen that claim and could qualify for benefits.

044 CHAIR DERFLER: Is that charged to the previous employer?

KIDDER: Yes.

048 DICK VAN PELT: The charge provisions are in a separate statute and have, since 1947, provided that when a person leaves work for reasons not contributable to the employer, the account would not be charged.

CHAIR DERFLER: The benefits would be socialized.

VAN PELT: Some of the costs would be socialized.

057 CHAIR DERFLER: Gives an example from a school district. Would the school district have to pick up the benefits?

VAN PELT: Yes the school district would be charged even though the person would have quit without good cause.

063 KIDDER: Under this bill 90% of voluntary quit positions would be disqualified. Savings to the Employment Division would be approximately \$48 million.

074 REP. DOMINY: Where do you get that number? How long of a period of time do you calculate?

VAN PELT: It is based on our estimates for the coming biennium.

REP. DOMINY: So you reach this figure by using employer surveys? Did you go back and use real numbers for the past years?

VAN PELT: Explains the methodology of arriving at this figure.

091 REP. REPINE: Presents an example of a person who has lost his job in the timber industry and needs to relocate. Under this bill his wife, who needs to leave her job as well, is not qualified?

KIDDER: That is correct.

100 CHAIR DERFLER: What percentage of the unemployment benefits that are paid out is socialized?

KIDDER: Little over 41%.

CHAIR DERFLER: How does that compare with other states?

108 STEVE TEGGER, Legislative Liaison, Employment Division: We are somewhat

above the national average.

CHAIR DERFLER: Are we in the top 25%?

TEGGER: Yes.

CHAIR DERFLER: Is that one of the reasons why we have a higher unemployment benefit cost?

TEGGER: That is one of the factors.

127 REP. REPINE: Refers to the chart submitted by the Associated Oregon Industries. They divide the good causes into four categories. Could we break down the 26,000 people you referred to into those four categories?

PIERSON: It would have to be anecdotal because we do not collect data to that level of detail.

REP. REPINE: Some states go across the board and some states have

selected certain categories. I would like to know the philosophy behind it.

148 PIERSON: I can only speculate that they have made a policy decision to carve out an exception in their statute to accommodate some grave circumstances.

REP. REPINE: This committee has a policy decision range from where we are today to shutting this down entirely?

KIDDER: Yes.

159 REP. DOMINY: Are there still some states that have some of the provisions that Oregon used to have with regard to penalties?

PIERSON: I can get you data on that.

REP. DOMINY: When was that legislation passed?

PIERSON: In 1981.

183 BERNIE THURBER, Oregon Legal Services: Testifies in opposition of the bill (Exhibit C). The bill would affect adversely family situations.

213 CHAIR DERFLER: He refers to the earlier example of a person working in a school district in Roseburg and moving to Portland, and the former school district is going to be charged for unemployment benefits. What would be the rationale to make the school district pay?

THURBER: That may not be a fair result. We ought to attack that problem directly rather than pass the legislation before you today.

235 IRV FLETCHER, President, Oregon AFL-CIO: Testifies in opposition of HB 265 6 (Exhibit D). I am puzzled why we have HB 2656, 2657 and 2658 in the committee. Oregon unemployment insurance law has worked fine last several years and the trust fund is an all time high. We have at least a quarter of the people unemployed in this state who do not receive any benefit whatsoever and these bills attempt to increase those numbers.

262 GREG TEEPLE, Oregon State Building and Construction Trades Council: Testifies in opposition of the bill. Discusses the mobility of the construction work force and the effects this bill would have on that group.

277 REP. MANNIX: Is the large number of small businesses a factor with regard to the mobility of the construction work force?

TEEPLE: Yes, our average size is six employees in a company.

289 FLETCHER: We would not object if you want to deal with the issue as to who the charging employer is, we would support whatever recommendations you want to make regarding socializing the costs.

292 REP. DOMINY: Refers to the mobility of the work force in Oregon and the small size of the employers. People have to work for less now with the result that both members of the family members are working. If the minimum wage was three times what it is now, that might not be the case. How do you compare Oregon with other states with regard to mobility and small employers?



FLETCHER: I don't have the figures on that. Gives an example from the timber industry community. We don't want to deprive the spouse from unemployment insurance.

319 MARIA KELTNER, Association of Oregon Counties and the League of Oregon Cities: Testifies in support of HB 2656 (Exhibit E). The cities and counties should not be charged with the unemployment expenses in a case where a spouse loses his/her job due to the family's relocation.

348 CHAIR DERFLER: Recesses the meeting.

PUBLIC HEARING, HB 2657 (Exhibits F,G,H,I,J)

Witnesses:Karl Frederick, Associated Oregon Industries Lisa Trussell, Norpac Foods, Inc. Mari Anne Gest, Oregon School Employees Association Jeanine Meyer Rodriguez, Oregon Public Employees Union Dianne Rosenbaum, Oregon State Industrial Union Council Sharon Kidder, Employment Division Dick Van Pelt, Employment Division Ted Rabern, Local 2949

357 CHAIR DERFLER: Opens public hearing on HB 2657

368 KARL FREDERICK, Vice President and Director of Legislation, Associated Oregon Industries: Testifies in support of HB 2657 (Exhibit F).

-At least a dozen other states have special provisions relating to workers who are employed in seasonal industries.

398 LISA TRUSSELL, Human Resource Manager, Norpac Foods Inc.: Testifies in favor of HB 2657 on behalf of her company and the Oregon Food Processors Association (Exhibit G). Discusses the highly competitive nature of the food processing industry.

-Increasing the Oregon minimum wage has been a difficult problem for our growers.

TAPE 56, SIDE B

014 -Discusses the lack of dedication of the labor force.

-Oregon products have a difficult time competing with the Midwest.

-Increasing the qualifiers to 26 weeks and \$2,000 would reduce the unfair burden on Oregon's seasonal employers.

023 REP. MANNIX: Would more aggressive monitoring of the work requirement help?

TRUSSELL: It would be an improvement.

REP. MANNIX: If we had a full-time employed work force there would be no seasonal workers available to you. Does the unemployment reserve create this work force, or is it just something that happens?

TRUSSELL: It is an incentive for them not to work in the months that they don't want to.

REP. MANNIX: Are you able to document that offer of work and report that to the Employment Division in order to trigger their

disqualification?

TRUSSEL: We have had mixed reactions with that. We do follow-up. It is not a large percentage of workers whose benefits are discontinued as a result.

047 FREDERICK: Describes a profile of a seasonal worker. They are secondary wage earners usually. This has become for them a supplementary salary system.

CHAIR DERFLER: Could that be documented?

FREDERICK: To a certain degree, yes.

056 REP. JOHNSON: This bill will affect people who are not seasonal or secondary wage earners. Discusses the Douglas county timber industry problems. This bill would need to be refined substantially.

FREDERICK: You are right. It was not our intention to affect those people. I have suggestions and specific language to propose if you want to narrow this down to the food processing industry.

-Suggests studying the historical earning pattern of an individual.

REP. JOHNSON: Could you compare the food processing industry situation in Oregon to other states?

TRUSSEL: Refers to a table in Exhibit G. I don't know where we would fall in this. Some states exclude the seasonal workers, we don't.

REP. JOHNSON: What is the impact of the change from \$1,000 to \$2,000?

TRUSSEL: The qualifier would change.

112 REP. MANNIX: Gives an example of a welfare mother. That kind of person would end up being ineligible. We should look at a very long-term work history relative to the person's age.

TRUSSEL: I agree that new entries to the work force should be looked at differently. A lot of our employees are students and we get charged for them.

157 MARI ANNE GEST, Oregon School Employees Association: Testifies in opposition of HB 265 7.

-This bill might create more reliance on welfare and food stamps.

-She provides an example of school bus drivers who would be affected by this bill.

-Passing this bill would be an imprudent move now.

189 JEANINE MEYER RODRIGUEZ, Oregon Public Employees Union: Testifies in opposition of HB 2657. Discusses the unemployment rate in the U.S. and Oregon.

-Due to increasing unemployment and slow economy, this is not the right time to make more individuals ineligible for unemployment benefits.

-People hardest hit by this bill are people who earn the lowest wages.

-Oregon should not be the state that is distinguished for having the toughest eligibility requirements for unemployment benefits.

221 REP. MANNIX: Do the unemployment benefits flow up and down based on whatever one's pay was?

RODRIGUEZ: I don't know. I believe there is a minimum.

-The time factor, from 18 to 26 weeks, is more significant than the dollar amount.

-Refers to the previous testimony referring to 5 weeks of work and an income of \$1,000 doesn't demonstrate a real commitment to the work force. I don't believe that is necessarily the case. It has a lot to do with the person's skills, family situation and many other factors. I would like you to be more concerned about the individuals rather than the companies who are affected by this bill.

251 CHAIR DERFLER: Refers to Norpac's problem. Should that situation be addressed in any manner?

RODRIGUEZ: I am not sure of the circumstances as to why people do that. If some people are fraudulent or using the system, that should be dealt with.

266 REP. DOMINY: Refers to the Employment Division's testimony. According to this government employees would not be affected nearly as much as manufacturing, so this would not affect your members as much.

290 RODRIGUEZ: In the public sector the work force is generally more stable but there are those on call, temporary employees. In the public sector, the future is a little bit uncertain.

298 REP. MANNIX: Refers to the previous testimonies. What is your reaction to having tougher eligibility requirements for seasonal workers?

RODRIGUEZ: I would need to study this issue further before commenting on it.

REP. MANNIX: Suggests that the work history of an employee would be studied for a three- year period or so in order to establish if there is a pattern of regular seasonal work.

337 DIANNE ROSENBAUM, Oregon State Industrial Union Council: Testifies in opposition of HB 2657 (Exhibit H). The present unemployment insurance system is not working perfectly. The number of unemployed people who are receiving benefits is at an all-time low.

403 MANNIX: The Employment Division should have a tougher monitoring program for people who have a pattern of seasonal work. How do you feel about that?

ROSENBAUM: It surprises me that they don't do that.

TAPE 57, SIDE A

012 SHARON KIDDER, Assistant Administrator for Programs, Employment Division: Presents information with regard to HB 2657 (Exhibit I).

-Provides historical background information.

-Our records indicate that fewer than .4% per year would not qualify under the provision of this bill because of the wages that are involved.

-The fiscal impact would be savings to the trust fund about \$500,000.

-The time requirement would more heavily impact the number of people that would qualify for unemployment insurance.

-This would make Oregon the state requiring the highest number of weeks to qualify.

044 REP. MANNIX: Do you have a program to identify people who may have been routinely seasonal workers?

048 DICK VAN PELT, Employment Division: The only industry we monitor on seasonal basis is school teachers. We don't target specific industries or occupations and apply more intensive work search requirements.

REP. MANNIX: Emphasizes the importance of monitoring the work search to make sure it is realistic.

VAN PELT: We can do that through our eligibility review process.

063 KIDDER: Discusses the fiscal impact; raising the number of required work weeks for eligibility would result in savings to the unemployment insurance trust fund about \$50 million for the biennium.

VAN PELT: Explains the charts in Exhibit I as to who would be affected by this bill.

080 REP. EDMUNSON: Does the manufacturing sector include both wood manufacturing and food processing?

VAN PELT: It would include all manufacturing. There is a separate category for agriculture. Canneries would be included in manufacturing.

083 The committee discusses the figures on the charts of Exhibit I.

102 TED RABERN, Representing WCIW, Local 2949: Discusses this bill as it relates to Douglas County.

-Our unemployment rate last week was 12.7%.

-Environmental concerns are shutting down our jobs.

-This bill would do a great injustice for the wood workers in Oregon.

-Discusses the situation of Douglas county and the effects of the current recession.

-People will look for assistance from welfare benefits and food stamps.

180 KIDDER: Provides a hand-out further explaining the charts in Exhibit I (Exhibit J).

199 CHAIR DERFLER: Refers to the issue of seasonal workers. Do you

have the ability to correct that problem? Is there something we need to do to make it available to you?

KIDDER: We look at applicants' work and wage history. We try to be fair when dealing with all the claimants. A seasonal claimant would be required to seek work as we would require anyone else to be actively seeking work.

215 REP. DOMINY: How do you interpret "actively seeking employment?"

KIDDER: We explain to the applicants what the requirements are for them to continue to draw benefits.

244 VAN PELT: We attempt to tailor the work search to the occupation, to what is customary for it.

254 REP. DOMINY: What set of criteria is used for cannery workers?

VAN PELT: If the person is strictly seasonal they are expected to seek work.

274 CHAIR DERFLER: Adjourns the meeting at 10:55 a.m.

Submitted by:      Reviewed by:

Johanna Klarin      Victoria Dozler Assistant                      Administrator

EXHIBIT LOG:

A	-	Testimony on HB 2656 - Karl Frederick - 5 pages.
B	-	Testimony on HB 2656 - Sharon Kidder - 2 pages.
C	-	Testimony on HB 2656 - Bernie Thurber - 3 pages.
D	-	Testimony on HB 2656 - Irv Fletcher - 1 page.
E	-	Testimony on HB 2656 - Maria Keltner - 1 page.
F	-	Testimony on HB 2657 - Karl Frederick - 3 pages.
G	-	Testimony on HB 2657 - Lisa Trussell - 5 pages.
H	-	Testimony on HB 2657 - Diane Rosenbaum - 1 page.
I	-	Testimony on HB 2657 - Sharon Kidder - 6 pages.
J	-	Testimony on HB 2657 - Sharon Kidder - 2 pages.